



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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021**  
**MINIRECORD**  
**VOLUME 1**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

In Re:  
Highland Capital Management, L.P.

The Charitable DAF Fund, L.P. and CLO Holdco, Ltd  
vs.  
Highland Capital Management, L.P.

Debtor(s)  
Appellant(s)  
Appellee(s)

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Case No.: 19-34054-sgj11  
Chapter No.: 11  
Adversary No.: 21-03067-sgj  
Civil Action No.: 3:21-CV-03129-N

**INDEX OF RECORD FOR THE PURPOSE OF APPEAL**

<b><u>Page No.</u></b>	<b><u>Item Description</u></b>
	Appellant Index
000001	Notice of appeal
000006	Appealed order
000008	Docket sheet
000022	Bk docket sheet

DATED: 2/17/22

FOR THE COURT:  
Robert P. Colwell, Clerk of Court  
by: /s/J. Blanco, Deputy Clerk

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to



their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

*Vol. 1*  
*000001*  
*000006*  
*000008*

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

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*000479*  
*000515*  
*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, <u>47</u> Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., <u>55</u> Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>26</u> and for <u>47</u> and for <u>55</u> , (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # <u>1</u> Exhibit A <u>1</u> Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Attachments: # <u>1</u> Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding, <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint), <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Sbaiti, Mazin)

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

<p>Vol. 10 002163</p>	<p>13 07/16/2020</p>	<p>854</p>	<p>(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).</p>
<p>002175</p>	<p>14 07/17/2020</p>	<p>864</p>	<p>(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)</p>
<p>002309</p>	<p>15 12/23/2020</p>	<p>1625</p>	<p>(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
<p>002322</p>	<p>16 01/22/2021</p>	<p>1788</p>	<p>(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)</p>

Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)



TRANSCRIPT

<p>Vol. 12</p> <p>002705</p>	<p>78</p>	<p>11/24/21</p>	<p>78</p> <p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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*Counsel for The Charitable DAF Fund, L.P.  
and CLO Holdco, Ltd.*

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

In re:	§ Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§
	§ Case No. 19-34054-sgj11
Debtor.	§
	§
CHARITABLE DAF FUND, L.P. AND CLO	§
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§
	§
Plaintiffs,	§ Adversary Proceeding No.
	§
vs.	§ 21-03067-sgj11
	§
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§
HIGHLAND HCF ADVISOR, LTD., AND	§
HIGHLAND CLO FUNDING LTD., NOMINALLY	§
	§
Defendant.	§
	§

**NOTICE OF APPEAL AND STATEMENT OF ELECTION**

**Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s):

The Charitable DAF Fund, L.P.  
CLO Holdco, Ltd.



2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding:

- Plaintiff  
 Defendant  
 Other (describe)
- 

For appeals in a bankruptcy case and not in an adversary proceeding:

- Debtor  
 Creditor  
 Trustee  
 Other (describe)

## Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:

Order Denying Motion to Stay [Doc. 81]

2. State the date on which the judgment, order, or decree was entered: December 7, 2021

## Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys:

1. *Party/Appellee:* Debtor: Highland Capital Management, L.P.

Attorney:

PACHULSKI STANG ZIEHL & JONES LLP

Jeffery N. Pomerantz

Ira D. Kharasch

John A. Morris

Gregory V. Demo

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2. *Party/Appellants*: Plaintiffs: The Charitable DAF Fund, L.P.  
CLO Holdco, Ltd.

Attorney:

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Mazin A. Sbaiti (TX Bar No. 24058096)  
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**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts):** Not applicable.

Dated: December 10, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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**Counsel for Plaintiffs**




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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed December 7, 2021

  
United States Bankruptcy Judge

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>  
Debtor.

CHARITABLE DAF FUND, L.P. AND CLO  
HOLDCO, LTD.

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.,

Defendants.

§ Chapter 11  
§  
§ Case No. 19-34054-sgj11  
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§ Adversary Proceeding No.  
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§ Case No. 21-03067-sgj  
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§

**ORDER DENYING MOTION TO STAY**

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

This matter having come before the Court on the *Plaintiffs' Motion to Stay All Proceedings* [Docket No. 55] (the "Motion")<sup>2</sup> filed by Charitable DAF Fund, L.P., and CLO Holdco, Ltd., the plaintiffs (the "Plaintiffs") in the above-captioned adversary proceeding (the "Adversary Proceeding"); and this Court having considered (i) the Motion; (ii) *Highland Capital Management, L.P.'s Opposition to Motion to Stay All Proceedings* [Docket No. 60] (the "Opposition"); (iii) *Plaintiffs' Amended Motion to Stay All Proceedings* [Docket No. 69] (the "Amended Motion"); (iv) and the arguments made during the hearing held on November 23, 2021 (the "Hearing"); and this Court having found that Plaintiffs failed to demonstrate that a stay of this Adversary Proceeding is warranted; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate and that no other notice need be provided; and upon all of the proceedings had before this Court, and after due deliberation and sufficient cause appearing therefor, and for the reasons set forth in the record on this Motion, **IT IS ORDERED, ADJUDGED, AND DECREED THAT**

1. The Motion is DENIED.
2. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**### END OF ORDER ###**

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<sup>2</sup> Capitalized terms used but not herein defined shall have the meanings ascribed to such terms in the Motion.



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed December 7, 2021

  
United States Bankruptcy Judge

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>  
Debtor.

CHARITABLE DAF FUND, L.P. AND CLO  
HOLDCO, LTD.

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.,

Defendants.

§ Chapter 11  
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**ORDER DENYING MOTION TO STAY**

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

This matter having come before the Court on the *Plaintiffs' Motion to Stay All Proceedings* [Docket No. 55] (the "Motion")<sup>2</sup> filed by Charitable DAF Fund, L.P., and CLO Holdco, Ltd., the plaintiffs (the "Plaintiffs") in the above-captioned adversary proceeding (the "Adversary Proceeding"); and this Court having considered (i) the Motion; (ii) *Highland Capital Management, L.P.'s Opposition to Motion to Stay All Proceedings* [Docket No. 60] (the "Opposition"); (iii) *Plaintiffs' Amended Motion to Stay All Proceedings* [Docket No. 69] (the "Amended Motion"); (iv) and the arguments made during the hearing held on November 23, 2021 (the "Hearing"); and this Court having found that Plaintiffs failed to demonstrate that a stay of this Adversary Proceeding is warranted; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate and that no other notice need be provided; and upon all of the proceedings had before this Court, and after due deliberation and sufficient cause appearing therefor, and for the reasons set forth in the record on this Motion, **IT IS ORDERED, ADJUDGED, AND DECREED THAT**

1. The Motion is DENIED.
2. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**### END OF ORDER ###**

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<sup>2</sup> Capitalized terms used but not herein defined shall have the meanings ascribed to such terms in the Motion.

**DISMISSED, APPEAL, ADVAPL**

**U.S. Bankruptcy Court  
Northern District of Texas (Dallas)  
Adversary Proceeding #: 21-03067-sgj**

*Assigned to:* Stacey G. Jernigan  
*Lead BK Case:* 19-34054  
*Lead BK Title:* Highland Capital Management, L.P.  
*Lead BK Chapter:* 11  
*Demand:*

*Date Filed:* 04/12/21  
*Date Dismissed:* 12/07/21  
*Date Transferred:* 09/20/21

*Nature[s] of Suit:* 02 Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)

***Plaintiff***  
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**Charitable DAF Fund, LP**

represented by **Jonathan E. Bridges**  
Sbaiti & Company PLLC  
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**LEAD ATTORNEY**

***Plaintiff***  
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**CLO Holdco, Ltd.**

represented by **Jonathan E. Bridges**  
(See above for address)

**Mazin Ahmad Sbaiti**  
(See above for address)  
**LEAD ATTORNEY**

V.

***Defendant***  
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**Highland Capital Management, LP**

represented by **Zachery Z. Annable**  
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000008

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***Defendant***

**Highland HCF Advisor Ltd**

represented by **Highland HCF Advisor Ltd**  
 PRO SE

***Defendant***

**Highland CLO Funding, Ltd.**

represented by **Paul Richard Bessette**  
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 500 W. 2nd Street, Suite 1800  
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 512-330-4000  
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 LEAD ATTORNEY

Filing Date	Docket Text
09/29/2021	<p><u>1</u> Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP , CLO Holdco, Ltd. against Highland Capital Management, LP , Highland HCF Advisor Ltd , Highland CLO Funding, Ltd. . Fee Amount \$350 (Attachments: # <u>1</u> Original Complaint # <u>2</u> Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)</p>
09/29/2021	<p><u>2</u> Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s)<u>1</u> Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)</p>
09/29/2021	<p><u>3</u> Request for Clerk to issue Summons filed by CLO Holdco Ltd, Charitable DAF Fund LP.(Sbaiti, Mazin) [ORIGINALLY FILED IN 21-CV-0842 AS #3 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)</p>
09/29/2021	<p><u>4</u> DISTRICT COURT ENTRY: New Case Notes: A filing fee has been paid. Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge (Judge Horan). Clerk to provide copy to plaintiff if not received electronically. (oyh) (Entered: 04/13/2021) (Okafor, M.)</p>

09/29/2021	<u>5</u> Summons Issued as to Highland CLO Funding Ltd, Highland Capital Management LP, Highland HCF Advisor Ltd. (oyh) (Entered: 04/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #5 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>6</u> MOTION for Leave to File First Amended Complalnt filed by CLO Holdco Ltd, Charitable DAF Fund LP P (Attachments: # <u>1</u> Exh 1 First Amended Complaint # <u>2</u> Exh 2 Motion for Authorization to Retain James Seery # <u>3</u> Exh 3 Order Approving Retention of James Seery # <u>4</u> Exh 4 Order Approving Settlement # <u>5</u> Proposed Order) (Bridges, Jonathan) (Entered: 04/19/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #6 ON 04/19/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>7</u> ***DISREGARD FILED IN ERROR per atty***AMENDED DOCUMENT by CLO Holdco Ltd, Charitable DAF Fund LP. Amendment to 6 MOTION for Leave to File First Amended Complalnt. Amended Proposed Order. (Bridges, Jonathan) Modified per atty request on 4/20/2021 (svc). (Entered: 04/20/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #7 ON 04/20/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>8</u> ELECTRONIC ORDER denying 6 Motion for Leave to File without prejudice. To the extent a motion for leave to file an amended complaint is required under Rule 15, Plaintiffs may renew their motion after Defendants are served and have appeared. (Ordered by Judge Jane J. Boyle on 4/20/2021) (chmb) (Entered: 04/20/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #8 ON 04/20/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>9</u> Motion for an Order Extending the Time to File a Responsive Pleading filed by Highland Capital Management LP. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (Entered: 05/06/2021) (Annable, Zachery) Modified text on 5/7/2021 (jmg). [ORIGINALLY FILED IN 21-CV-0842 AS #9 ON 05/06/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>10</u> ELECTRONIC ORDER granting in part and denying in part 9 Motion for Extension of Time to File Answer. Defendant Highland Capital Management, L.P. may file an answer or other responsive pleading on or before May 27, 2021. (Ordered by Judge Jane J. Boyle on 5/7/2021) (chmb) (Entered: 05/07/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #10 ON 05/07/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>11</u> Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879843) filed by Highland Capital Management LP (Attachments: # <u>1</u> Certificate of Good Standing) (Pomerantz, Jeffrey) (Entered: 05/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #11 ON 05/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>12</u> Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879878) filed by Highland Capital Management LP (Attachments: # <u>1</u> Certificate of Good Standing) (Demo, Gregory) (Entered: 05/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #12 ON 05/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>13</u> Application for Admission Pro Hac Vice without Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879894) filed by Highland Capital Management LP Attorney John A Morris added to party Highland Capital Management LP(pty:dft) (Morris, John) Modified text on 5/11/2021 (jmg). (Entered: 05/10/2021) [ORIGINALLY FILED IN

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	21-CV-0842 AS #13 ON 05/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>14</u> Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Robert J. Feinstein (Filing fee \$100; Receipt number 0539-11879911) filed by Highland Capital Management LP (Attachments: # <u>1</u> Certificate of Good Standing) (Hayward, Melissa) (Entered: 05/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #14 ON 05/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>15</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re 9 Motion for an Order Extending the Time to File a Responsive Pleading (Annable, Zachery) [ORIGINALLY FILED IN 21-CV-0842 AS #15 ON 05/11/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Entered: 05/11/2021)
09/29/2021	<u>16</u> ELECTRONIC ORDER granting <u>11</u> Application for Admission Pro Hac Vice of Jeffrey Pomerantz. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #16 ON 05/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>17</u> ELECTRONIC ORDER granting <u>12</u> Application for Admission Pro Hac Vice of Gregory Demo. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #17 ON 05/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>18</u> ELECTRONIC ORDER granting <u>14</u> Application for Admission Pro Hac Vice of Robert Feinstein. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #18 ON 05/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>19</u> ELECTRONIC ORDER: <u>13</u> The Motion for Admission Pro Hac Vice filed by John Morris is deficient, as it is not accompanied by a certificate of good standing from the licensing authority of a state in which Mr. Morris is licensed to practice law. Mr. Morris must therefore supplement his motion. (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #19 ON 05/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>20</u> Supplemental Document by Highland Capital Management LP as to <u>13</u> Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879894) Certificate of Good Standing. (Morris, John) (Entered: 05/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #20 ON 05/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>21</u> ELECTRONIC ORDER granting <u>13</u> Application for Admission Pro Hac Vice of John Morris. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/13/2021) (chmb) (Entered:

	05/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #21 ON 05/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>22</u> MOTION for an Order to Enforce the Order of Reference filed by Highland Capital Management LP. (Attachments: # <u>1</u> Exhibit(s) A—Proposed Order) (Annable, Zachery) Modified text on 5/20/2021 (mjr). (Entered: 05/19/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #22 ON 05/19/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>23</u> Brief/Memorandum in Support filed by Highland Capital Management LP re: <u>22</u> MOTION for an Order to Enforce the Order of Reference. (Annable, Zachery) Modified text on 5/20/2021 (mjr). (Entered: 05/19/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #23 ON 05/19/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>24</u> Appendix in Support filed by Highland Capital Management LP re: <u>23</u> Brief/Memorandum in Support. (Attachments: # <u>1</u> Appendix 1 # <u>2</u> Appendix 2 # <u>3</u> Appendix 3 # <u>4</u> Appendix 4 # <u>5</u> Appendix 5 # <u>6</u> Appendix 6 # <u>7</u> Appendix 7 # <u>8</u> Appendix 8 # <u>9</u> Appendix 9 # <u>10</u> Appendix 10 # <u>11</u> Appendix 11 # <u>12</u> Appendix 12 # <u>13</u> Appendix 13 # <u>14</u> Appendix 14 # <u>15</u> Appendix 15 # <u>16</u> Appendix 16 # <u>17</u> Appendix 17 # <u>18</u> Appendix 18 # <u>19</u> Appendix 19 # <u>20</u> Appendix 20 # <u>21</u> Appendix 21 # <u>22</u> Appendix 22 # <u>23</u> Appendix 23 # <u>24</u> Appendix 24 # <u>25</u> Appendix 25 # <u>26</u> Appendix 26 # <u>27</u> Appendix 27 # <u>28</u> Appendix 28) (Annable, Zachery) Modified linkage and text on 5/20/2021 (mjr). (Entered: 05/19/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #24 ON 05/19/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>25</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>23</u> Brief/Memorandum in Support of Motion, <u>24</u> Appendix in Support, <u>22</u> MOTION for an Order to Enforce the Order of Reference (Annable, Zachery) (Entered: 05/21/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #25 ON 05/21/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>26</u> MOTION to Dismiss Complaint filed by Highland Capital Management LP (Attachments: # <u>1</u> Exhibit(s) A—Proposed Order) (Annable, Zachery) Modified text on 5/28/2021 (jmg). (Entered: 05/27/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #26 ON 05/27/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>27</u> Brief/Memorandum in Support filed by Highland Capital Management LP (RE: related document(s) <u>26</u> MOTION to Dismiss Complaint filed by Highland Capital Management LP (Annable, Zachery) (Entered: 05/27/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #27 ON 05/27/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>28</u> Appendix in Support filed by Highland Capital Management LP (Attachments: # <u>1</u> Appendix 1 # <u>2</u> Appendix 2 # <u>3</u> Appendix 3 # <u>4</u> Appendix 4 # <u>5</u> Appendix 5 # <u>6</u> Appendix 6 # <u>7</u> Appendix 7 # <u>8</u> Appendix 8 # <u>9</u> Appendix 9 # <u>10</u> Appendix 10 # <u>11</u> Appendix 11 # <u>12</u> Appendix 12 # <u>13</u> Appendix 13) (Annable, Zachery) (Entered: 05/27/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #28 ON 05/27/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>29</u> Partially Opposed MOTION for Extension of Time to File Response/Reply to <u>26</u> MOTION to Dismiss (Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint), <u>22</u> MOTION for an Order to Enforce the Order of Reference filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) Modified text on 6/3/2021 (mjr).

	(Entered: 06/02/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #29 ON 06/02/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>30</u> WAIVER OF SERVICE Returned Executed as to CLO Holdco Ltd. Waiver sent on 6/1/2021; Charitable DAF Fund LP. Waiver sent on 6/1/2021. (Sbaiti, Mazin) (Entered: 06/03/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #30 ON 06/03/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>31</u> ELECTRONIC ORDER granting <u>29</u> Motion to Extend Time to File Response/Reply. Plaintiffs may file responses to both <u>22</u> the motion to enforce the order of reference and <u>26</u> the motion to dismiss on or before June 29, 2021. (Ordered by Judge Jane J. Boyle on 6/3/2021) (chmb) (Entered: 06/03/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #31 ON 06/03/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>32</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re: <u>27</u> Brief/Memorandum in Support of Motion, <u>28</u> Appendix in Support, <u>26</u> MOTION to Dismiss. (Annable, Zachery) Modified text on 6/7/2021 (mjr). (Entered: 06/04/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #32 ON 06/04/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>33</u> Amended Civil Cover Sheet by CLO Holdco Ltd, Charitable DAF Fund LP. Amendment to <u>2</u> Supplemental Document. (Sbaiti, Mazin) Modified text on 6/23/2021 (mjr). (Entered: 06/22/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #33 ON 06/22/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>34</u> Unopposed MOTION for Leave to File Response to Motion to Dismiss in Excess of Page Limit filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 06/28/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #34 ON 06/28/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>35</u> ELECTRONIC ORDER granting <u>34</u> Unopposed Motion for Leave to File Response in Excess of Page Limit. Plaintiffs' response to Defendant's motion to dismiss may exceed the page limit by no more than ten pages. (Ordered by Judge Jane J. Boyle on 6/29/2021) (chmb) (Entered: 06/29/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #35 ON 06/29/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>36</u> RESPONSE filed by CLO Holdco Ltd, Charitable DAF Fund LP re: <u>22</u> MOTION for an Order to Enforce the Order of Reference (Sbaiti, Mazin) (Entered: 06/29/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #36 ON 06/29/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>37</u> Appendix in Support filed by CLO Holdco Ltd, Charitable DAF Fund LP re <u>36</u> Response/Objection Response to Motion for an Order to Enforce the Order of Reference (Sbaiti, Mazin) (Entered: 06/29/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #37 ON 06/29/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>38</u> RESPONSE filed by CLO Holdco Ltd, Charitable DAF Fund LP re: <u>26</u> MOTION to Dismiss (Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint) (Sbaiti, Mazin) (Entered: 06/29/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #38 ON 06/29/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF



	TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>39</u> Appendix in Support filed by CLO Holdco Ltd, Charitable DAF Fund LP re 38 Response/Objection to Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint (Sbaiti, Mazin) (Entered: 06/29/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #39 ON 06/29/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>40</u> Unopposed MOTION for Leave to File Reply in Excess of Page Limits (Defendant Highland Capital Management, L.P.'s Unopposed Motion for Leave to Exceed Page Limit) filed by Highland Capital Management LP (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery) (Entered: 07/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #40 ON 07/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>41</u> ELECTRONIC ORDER granting <u>40</u> Unopposed Motion for Leave to Exceed Page Limit. Defendant Highland Capital Management, L.P. may file a reply of up to fifteen pages. (Ordered by Judge Jane J. Boyle on 7/13/2021) (chmb) (Entered: 07/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #41 ON 07/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>42</u> REPLY filed by Highland Capital Management LP re: <u>22</u> MOTION for an Order to Enforce the Order of Reference (Annable, Zachery) (Entered: 07/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #42 ON 07/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>43</u> Appendix in Support filed by Highland Capital Management LP re: <u>42</u> Reply. (Annable, Zachery) Modified text on 7/14/2021 (mjr). (Entered: 07/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #43 ON 07/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>44</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>40</u> Unopposed MOTION for Leave to File Reply in Excess of Page Limits (Defendant Highland Capital Management, L.P.'s Unopposed Motion for Leave to Exceed Page Limit) (Annable, Zachery) (Entered: 07/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #44 ON 07/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>45</u> REPLY filed by Highland Capital Management LP re: <u>26</u> MOTION to Dismiss (Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint) (Annable, Zachery) (Entered: 07/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #44 ON 07/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>46</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>42</u> Reply, <u>43</u> Appendix in Support, <u>45</u> Reply (Annable, Zachery) (Entered: 07/14/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #46 ON 07/14/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd. , Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>48</u> RESPONSE filed by Highland Capital Management LP re: <u>47</u> Motion to strike <u>43</u> Appendix in Support (Annable, Zachery) (Entered: 07/20/2021) [ORIGINALLY FILED IN

	21-CV-0842 AS #48 ON 07/20/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>49</u> CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Highland Capital Management LP. (Annable, Zachery) (Entered: 07/23/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #49 ON 07/23/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>50</u> CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Charitable DAF Fund LP. (Sbaiti, Mazin) (Entered: 07/23/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #50 ON 07/23/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>51</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re 48 Response/Objection (Annable, Zachery) (Entered: 07/23/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #51 ON 07/23/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>52</u> MOTION to Take Judicial Notice of Order filed by Highland Capital Management LP (Attachments: # <u>1</u> Exhibit(s) A # <u>2</u> Proposed Order) (Annable, Zachery) (Entered: 08/11/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #52 ON 08/11/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>53</u> ELECTRONIC ORDER granting 52 Motion to Take Judicial Notice of Order. The Court takes judicial notice that the bankruptcy court held Plaintiffs and others in contempt of its orders. See Order, In re Highland Cap. Mgmt., L.P., No. 19-34054-sgj11 (Bankr. N.D. Tex. Aug. 4, 2021) (ECF No. 2660). The Court will consider this fact in addressing the remaining pending motions in this case, which are under advisement. (Ordered by Judge Jane J. Boyle on 8/12/2021) (chmb) (Entered: 08/12/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #53 ON 08/12/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>54</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re 52 MOTION to Take Judicial Notice of Order (Annable, Zachery) (Entered: 08/16/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #54 ON 08/16/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>56</u> ELECTRONIC ORDER: Defendants are ORDERED to file a response, not to exceed ten pages, to 55 Plaintiffs' motion to stay on or before September 10, 2021. No reply will be permitted. (Ordered by Judge Jane J. Boyle on 8/27/2021) (chmb) (Entered: 08/27/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #56 ON 08/27/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>57</u> MOTION to Dismiss and Joinder in Motion to Dismiss of Highland Capital Management, L.P. filed by Highland CLO Funding Ltd (Attachments: # <u>1</u> Proposed Order) Attorney Paul R Bessette added to party Highland CLO Funding Ltd(pty:dft) (Bessette, Paul) (Entered: 08/30/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #57 ON 08/30/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)

09/29/2021	<u>58</u> Brief/Memorandum in Support filed by Highland CLO Funding Ltd re 57 MOTION to Dismiss and Joinder in Motion to Dismiss of Highland Capital Management, L.P. (Besette, Paul) (Entered: 08/30/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #58 ON 08/30/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>59</u> Appendix in Support filed by Highland CLO Funding Ltd re 58 Brief/Memorandum in Support of Motion (Attachments: # <u>1</u> Exhibit(s) A – Jackson v Dear # <u>2</u> Exhibit(s) B – Prudential Assurance v. Newman # <u>3</u> Exhibit(s) C – Harbourvest Settlement Agreement # <u>4</u> Exhibit(s) D – Boleat Declaration) (Besette, Paul) (Entered: 08/30/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #59 ON 08/30/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>60</u> RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>61</u> CERTIFICATE OF SERVICE by Highland Capital Management LP re 60 Response/Objection (Annable, Zachery) (Entered: 09/13/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #61 ON 09/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>62</u> Unopposed MOTION for Extension of Time to File Response/Reply to 57 MOTION to Dismiss and Joinder in Motion to Dismiss of Highland Capital Management, L.P. filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) Modified text on 9/20/2021 (mjr). (Entered: 09/17/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #62 ON 09/17/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>63</u> ADDITIONAL ATTACHMENTS to 62 Motion for Extension of Time to File Response/Reply by Plaintiffs CLO Holdco Ltd, Charitable DAF Fund LP. (Sbaiti, Mazin) (Entered: 09/20/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #63 ON 09/20/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>64</u> ORDER OF REFERENCE: Pursuant to 28 U.S.C. § 157 and this District's Miscellaneous Order No. 33, this case is hereby REFERRED to Judge Stacey G. C. Jernigan of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, to be adjudicated as a matter related to the consolidated Chapter 11 Bankruptcy of Highland Capital Management, L.P., Chapter 11 Case No. 19-34054. (Ordered by Judge Jane J. Boyle on 9/20/2021) (svc) (Entered: 09/20/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #64 ON 09/20/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
09/29/2021	<u>65</u> Acknowledgment of referred case received from U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION Case number: 21-CV-0842. (Okafor, M.)
10/19/2021	<u>66</u> Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, <u>47</u> Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., <u>55</u> Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>26</u> and for <u>47</u> and for <u>55</u> , (Annable, Zachery)
10/22/2021	<u>67</u> Certificate of service re: Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>66</u> Notice of hearing filed by Defendant Highland



	Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, <u>47</u> Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., <u>55</u> Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>26</u> and for <u>47</u> and for <u>55</u> , filed by Defendant Highland Capital Management, LP). (Kass, Albert)
10/22/2021	<u>68</u> Certificate of service re: (Supplemental) re Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>66</u> Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, <u>47</u> Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., <u>55</u> Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>26</u> and for <u>47</u> and for <u>55</u> , filed by Defendant Highland Capital Management, LP). (Kass, Albert)
11/18/2021	<u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # <u>1</u> Exhibit A_Motion to Withdraw Reference) (Sbaiti, Mazin)
11/22/2021	<u>70</u> Witness and Exhibit List <i>for Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Attachments: # <u>1</u> Exhibits 1-30) (Hayward, Melissa)
11/22/2021	<u>71</u> Witness and Exhibit List <i>for Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding). (Attachments: # <u>1</u> Exhibits 1-13) (Hayward, Melissa)
11/22/2021	<u>72</u> Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding, <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint), <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Sbaiti, Mazin)
11/22/2021	<u>73</u> Exhibit List <i>for November 23, 2021 hearing</i> filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11/23/2021	<u>74</u> Request for transcript regarding a hearing held on 11/23/2021. The requested turn-around time is hourly (Jeng, Hawaii)
11/23/2021	<u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ) (Jeng, Hawaii)
11/23/2021	

	<p>76 Hearing held on 11/23/2021. (RE: related document(s)<u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd. , Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing . Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. ) (Jeng, Hawaii)</p>
11/23/2021	<p>77 Hearing held on 11/23/2021. (RE: related document(s)<u>26</u> MOTION to Dismiss Complaint filed by Highland Capital Management LP (Attachments: # 1 Exhibit(s) A—Proposed Order) (Annable, Zachery) Modified text on 5/28/2021 (jmg). (Entered: 05/27/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #26 ON 05/27/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing (Appendices only). Motion taken under advisement. ) (Jeng, Hawaii)</p>
11/24/2021	<p><u>78</u> Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)<u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)<u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)</p>
11/29/2021	<p><u>79</u> Certificate of service re: 1) Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on November 23, 2021; and 2) Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on November 23, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>70</u> Witness and Exhibit List for Hearing on November 23, 2021 filed by Defendant Highland Capital Management, LP (RE: related document(s)<u>69</u> Motion to abate Plaintiffs' Amended Motion to Stay All Proceedings (related document(s)<u>55</u> Motion to abate (related document(s)<u>1</u> Complaint))). (Attachments: # 1 Exhibits 1-30) filed by Defendant Highland Capital Management, LP, <u>71</u> Witness and Exhibit List for Hearing on November 23, 2021 filed by Defendant Highland Capital Management, LP (RE: related document(s)<u>26</u> Motion to dismiss adversary proceeding). (Attachments: # 1 Exhibits 1-13) filed by Defendant Highland Capital Management, LP). (Kass, Albert)</p>
12/07/2021	<p><u>80</u> Order granting Highland CLO Funding, Ltd.'s motion to dismiss adversary proceeding with prejudice (related document # <u>57</u>) Entered on 12/7/2021. (Okafor, Marcey)</p>
12/07/2021	<p><u>81</u> Order denying motion to stay (related documents <u>69</u> Plaintiffs' Amended motion to stay all proceedings and <u>55</u> Motion to stay) Entered on 12/7/2021. (Okafor, Marcey).</p>

	Modified linkage on 1/11/2022 (Okafor, Marcey).
12/07/2021	<u>82</u> Order dismissing motion to strike as moot (document # <u>47</u> ) Entered on 12/7/2021. (Okafor, Marcey)
12/09/2021	<u>83</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>80</u> Order granting Highland CLO Funding, Ltd.'s motion to dismiss adversary proceeding with prejudice (related document <u>57</u> ) Entered on 12/7/2021.) No. of Notices: 4. Notice Date 12/09/2021. (Admin.)
12/09/2021	<u>84</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>81</u> Order denying motion to stay (related document <u>55</u> ) Entered on 12/7/2021.) No. of Notices: 5. Notice Date 12/09/2021. (Admin.)
12/09/2021	<u>85</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>82</u> Order dismissing motion to strike as moot (document <u>47</u> ) Entered on 12/7/2021.) No. of Notices: 4. Notice Date 12/09/2021. (Admin.)
12/10/2021	<u>86</u> Notice of appeal of <i>Order Denying Motion to Stay</i> . Fee Amount \$298 filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>81</u> Order on motion to abate). Appellant Designation due by 12/27/2021. (Sbaiti, Mazin)
12/10/2021	Receipt of filing fee for Notice of appeal( <u>21-03067-sgi</u> ) [appeal,ntcap] ( 298.00). Receipt number A29186237, amount \$ 298.00 (re: Doc# <u>86</u> ). (U.S. Treasury)
12/10/2021	<u>87</u> Certificate of service re: 1) Order Granting Highland CLO Funding, Ltd.'s Motion to Dismiss; and 2) Order Denying Motion to Stay Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>80</u> Order granting Highland CLO Funding, Ltd.'s motion to dismiss adversary proceeding with prejudice (related document <u>57</u> ) Entered on 12/7/2021., <u>81</u> Order denying motion to stay (related document <u>55</u> ) Entered on 12/7/2021.). (Kass, Albert)
12/15/2021	<u>89</u> Certificate of mailing regarding appeal (RE: related document(s) <u>86</u> Notice of appeal of <i>Order Denying Motion to Stay</i> . Fee Amount \$298 filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>81</u> Order on motion to abate). Appellant Designation due by 12/27/2021.) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
12/15/2021	<u>90</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>86</u> Notice of appeal of <i>Order Denying Motion to Stay</i> . Fee Amount \$298 filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>81</u> Order on motion to abate). Appellant Designation due by 12/27/2021.) (Whitaker, Sheniqua)
12/15/2021	<u>91</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-03129-N. (RE: related document(s) <u>86</u> Notice of appeal of <i>Order Denying Motion to Stay</i> . Fee Amount \$298 filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>81</u> Order on motion to abate). Appellant Designation due by 12/27/2021.) (Whitaker, Sheniqua)
12/17/2021	<u>92</u> BNC certificate of mailing. (RE: related document(s) <u>90</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>86</u> Notice of appeal of <i>Order Denying Motion to Stay</i> . Fee Amount \$298 filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>81</u> Order on motion to abate). Appellant Designation due by 12/27/2021.)) No. of Notices: 0. Notice Date 12/17/2021. (Admin.)
12/27/2021	

	<p><u>93</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s)<u>86</u> Notice of appeal, <u>91</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/10/2022. (Sbaiti, Mazin)</p>
<p>12/28/2021</p>	<p><u>94</u> Clerk's correspondence requesting Amended designation from attorney for appellant. (RE: related document(s)<u>93</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s)<u>86</u> Notice of appeal, <u>91</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/10/2022.) Responses due by 12/30/2021. (Blanco, J.)</p>
<p>12/29/2021</p>	<p><u>95</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s)<u>93</u> Appellant designation). (Sbaiti, Mazin)</p>

SEALEDEXH, APPEAL, DirectAppeal, ADVAPL, 5thCircuitAppeal, SealedDocument, FUNDS,  
TRANSIN, REFORM, ClaimsAgent, EXHIBITS, COMPLEX

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

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

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

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**Official Committee of Unsecured Creditors**

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Filing Date	Docket Text
12/04/2019	<u>1</u> Order transferring case number 19–12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)
12/04/2019	<u>2</u> DOCKET SHEET filed in 19–12239 in the U.S. Bankruptcy Court for Delaware . (Okafor, M.)
12/04/2019	<u>3</u> Chapter 11 Voluntary Petition . Fee Amount \$1717. Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Creditor Matrix) [ORIGINALLY FILED AS DOCUMENT #1 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>4</u> Motion to Pay Employee Wages /Motion of the Debtors for Entry of Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief Filed Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #2 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>5</u> Motion to Pay Critical Trade Vendor Claims /Motion of the Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Proposed Order)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #3 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE]
12/04/2019	<u>6</u> Motion to Extend Deadline to File Schedules or Provide Required Information Filed by Highland Capital Management, L.P.(Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #4 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>8</u> <b>**WITHDRAWN**</b> – 10/29/2019. SEE DOCKET # 72. Motion to Approve Use of Cash Collateral /Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Order)(O'Neill, James) Modified on 10/30/2019 (DMC)[ORIGINALLY FILED AS DOCUMENT #6 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE]
12/04/2019	<u>9</u> Application to Appoint Claims/Noticing Agent KURTZMAN CARSON CONSULTANTS, LLC Filed By Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Engagement Agreement # <u>2</u> Exhibit B – Gershbein Declaration # <u>3</u> Exhibit C – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #7 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	

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	<p><u>10</u> Motion to File Under Seal/Motion of the Debtor for Entry of Interim and Final Orders Authorizing the Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #8 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>11</u> Affidavit/Declaration in Support of First Day Motion /Declaration of Frank Waterhouse in Support of First Day Motions Filed By Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #9 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)</p>
12/04/2019	<p><u>12</u> Notice of Hearing on First Day Motions (related document(s)2, 3, 5, 6, 7, 8, 9 [ON DELAWARE DOCKET]) Filed by Highland Capital Management, L.P.. Hearing scheduled for 10/18/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #11 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>13</u> Notice of Hearing // Notice of Interim Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing (related document(s)6) Filed by Highland Capital Management, L.P.. Hearing scheduled for 10/18/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Attachments: # <u>1</u> Exhibit A) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #12 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>14</u> Notice of Agenda of Matters Scheduled for Hearing Filed by Highland Capital Management, L.P.. Hearing scheduled for 10/18/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #13 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>15</u> Notice of appearance Filed by Alvarez &amp; Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #14 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>16</u> Motion to Appear pro hac vice of Marshall R. King of Gibson, Dunn &amp; Crutcher LLP. Receipt Number 2757354, Filed by Alvarez &amp; Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #15 ON 10/1/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>17</u> Motion to Appear pro hac vice of Michael A. Rosenthal of Gibson, Dunn &amp; Crutcher LLP. Receipt Number 2624495, Filed by Alvarez &amp; Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #16 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	<p><u>18</u> Motion to Appear pro hac vice of Alan Moskowitz of Gibson, Dunn &amp; Crutcher LLP. Receipt Number 2624495, Filed by Alvarez &amp; Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean) ) [ORIGINALLY FILED AS DOCUMENT #17 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)</p>
12/04/2019	

	<u>19</u> Motion to Appear pro hac vice of Matthew G. Bouslog of Gibson, Dunn & Crutcher LLP. Receipt Number 2581894, Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #18 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>20</u> Notice of Appearance and Request for Notice by Louis J. Cisz filed by Interested Party California Public Employees Retirement System (CalPERS) . (Okafor, M.) [ORIGINALLY FILED AS DOCUMENT #19 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE]
12/04/2019	<u>21</u> Motion to Appear pro hac vice (Jeffrey N. Pomerantz). Receipt Number 2564620, Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #20 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>22</u> Motion to Appear pro hac vice (Maxim B. Litvak). Receipt Number 2564620, Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #21 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>23</u> Motion to Appear pro hac vice (Ira D. Kharasch). Receipt Number DEX032537, Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #22 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>24</u> Motion to Appear pro hac vice (Gregory V. Demo). Receipt Number DEX032536, Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #23 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>25</u> Motion to Appear pro hac vice of Marc B. Hankin. Receipt Number 2757358, Filed by Redeemer Committee of the Highland Crusader Fund. (Miller, Curtis) [ORIGINALLY FILED AS DOCUMENT #24 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>26</u> Order Approving Motion for Admission pro hac vice Marshall R. King of Gibson(Related Doc # 15) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #25 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>27</u> Order Approving Motion for Admission pro hac vice Michael A. Rosenthal (Related Doc # 16) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #26 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>28</u> Order Approving Motion for Admission pro hac vice Alan Moskowitz (Related Doc # 17) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #27 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>29</u> Order Approving Motion for Admission pro hac vice Matthew G. Bouslog(Related Doc # 18) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #28 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>30</u> Order Approving Motion for Admission pro hac vice Jeffrey N. Pomerantz (Related Doc # 20) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT

	#29 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>31</u> Order Approving Motion for Admission pro hac vice Maxim B. Litvak (Related Doc # 21) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #30 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>32</u> Order Approving Motion for Admission pro hac vice Ira D. Kharasch (Related Doc # 22) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #31 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>33</u> Order Approving Motion for Admission pro hac vice Gregory V. Demo(Related Doc # 23) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #32 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>34</u> Order Approving Motion for Admission pro hac vice Marc B. Hankin(Related Doc # 24) Order Signed on 10/17/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #33 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>35</u> Certificate of Service of: 1) Notice of Hearing on First Day Motions; 2) Notice of Interim Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing; and 3) Notice of Agenda for Hearing of First Day Motions Scheduled for October 18, 2019 at 10:00 a.m. (related document(s)11, 12, 13) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #34 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>36</u> Motion to Appear pro hac vice (John A. Morris). Receipt Number 2635868, Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #35 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>37</u> Notice of Appearance and Request for Notice by Richard B. Levin , Marc B. Hankin , Kevin M. Coen , Curtis S. Miller filed by Interested Party Redeemer Committee of the Highland Crusader Fund . (Miller, Curtis) [ORIGINALLY FILED AS DOCUMENT #36 ON 10/17/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>38</u> Order Approving Motion for Admission pro hac vice John A. Morris(Related Doc # 35) Order Signed on 10/18/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #38 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>39</u> Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief. (related document(s)2) Order Signed on 10/18/2019. (NAB) [ORIGINALLY FILED AS DOCUMENT #39 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>40</u> Interim Order (A) Authorizing the Debtor to Pay Certain Prepetition Claims of Critical Vendors and (B) Granting Related Relief (Related Doc 3) Order Signed on 10/18/2019 (Attachments: # <u>1</u> Agreement)) (NAB) Modified Text on 10/21/2019 (LB) [ORIGINALLY



	FILED AS DOCUMENT #40 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>41</u> Notice of Appearance and Request for Notice by Eric Thomas Haitz filed by Debtor Highland Capital Management, L.P.. (Haitz, Eric)
12/04/2019	<u>42</u> Interim Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief. (Related Doc 5) Order Signed on 10/18/2019. (JS) Modified Text on 10/21/2019 (LB). [ORIGINALLY FILED AS DOCUMENT #42 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>43</u> Order Appointing Kurtzman Carson Consultants, LLC as Claims and Noticing Agent for the Debtors Pursuant to 28 U.S.C. §156(C), 11 U.S.C. §105(A), and Local Rule 2002-1(F) (Related Doc # 7) Order Signed on 10/18/2019. (JS) [ORIGINALLY FILED AS DOCUMENT #43 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>44</u> Interim Order Authorizing the Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information. (Related Doc # 8) Order Signed on 10/18/2019. (JS) [ORIGINALLY FILED AS DOCUMENT #44 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>45</u> Notice of Appearance and Request for Notice by Elizabeth Weller filed by Irving ISD , Grayson County , Upshur County , Dallas County , Tarrant County , Kaufman County , Rockwall CAD , Allen ISD , Fannin CAD , Coleman County TAD . (Okafor, M.)
12/04/2019	<u>46</u> Notice of hearing/ <i>scheduling conference</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)). Status Conference to be held on 12/6/2019 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Haitz, Eric)
12/04/2019	<u>47</u> Notice of Service // Notice of Entry of Order on Motion of Debtor for Entry of Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief (related document(s) <u>2</u> , <u>39</u> ) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #47 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>48</u> Notice of Service // Notice of Entry of Order on Application for an Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Debtor Pursuant to 28 U.S.C. §156(C), 11 U.S.C. §105(A), and Local Rule 2002-1(F) (related document(s) <u>7</u> , <u>43</u> ) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #48 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Additional attachment(s) added on 12/9/2019 (Okafor, M.)
12/04/2019	<u>49</u> Notice of Hearing // Notice of Motion of Debtor for Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief (related document(s) <u>4</u> ) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019.(Attachments: # <u>1</u> Exhibit 1) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #49 ON 10/18/2019 IN U.S.

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	BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>50</u> Notice of Hearing // Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief (related document(s)3, 40) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #50 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>51</u> Notice of Hearing // Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief (related document(s)5, 42) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #51 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>52</u> Notice of Hearing // Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information (related document(s)8, 44) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #52 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>53</u> Notice of Hearing // Notice of Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing (related document(s)6) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/7/2019 at 03:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 10/31/2019. (Attachments: # <u>1</u> Exhibit 1) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #53 ON 10/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>54</u> Affidavit/Declaration of Service for service of (1) [Signed] Order Approving Motion for Admission pro hac vice Jeffrey N. Pomerantz [Docket No. 29]; (2) [Signed] Order Approving Motion for Admission pro hac vice Maxim B. Litvak [Docket No. 30]; (3) [Signed] Order Approving Motion for Admission pro hac vice Ira D. Kharasch [Docket No. 31]; (4) [Signed] Order Approving Motion for Admission pro hac vice Gregory V. Demo [Docket No. 32]; (5) [Signed] Order Approving Motion for Admission pro hac vice John A. Morris [Docket No. 38]; (6) Notice of Entry of Order on Motion of Debtor for Entry of Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (II) Granting Related Relief [Docket No. 47]; (7) Notice of Entry of Order on Application for an Order Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent for the Debtor Pursuant to 28 U.S.C. §156(C), 11 U.S.C. §105(A), and Local Rule 2002-1(F) [Docket No. 48]; (8) Notice of Motion of Debtor for Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief [Docket No. 49]; (9) Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief [Docket No. 50]; (10) Notice

	of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief [Docket No. 51]; (11) Notice of Entry of Interim Order and Final Hearing on Motion of Debtor for Entry of Interim and Final Orders Authorizing Debtor to File Under Seal Portions of Its Creditor Matrix Containing Employee Address Information [Docket No. 52]; and (12) Notice of Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing [Docket No. 53] (related document(s)29, 30, 31, 32, 38, 47, 48, 49, 50, 51, 52, 53) Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #55 ON 10/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M)
12/04/2019	<u>55</u> Notice of Appearance and Request for Notice by Josef W. Mintz , John E. Lucian , Phillip L. Lamberson , Rakhee V. Patel filed by Acis Capital Management, L.P. , Acis Capital Management GP, LLC . (Attachments: # <u>1</u> Certificate of Service) (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #56 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>56</u> Motion to Appear pro hac vice of Rakhee V. Patel of Winstead PC. Receipt Number 3112761165, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #57 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>57</u> Motion to Appear pro hac vice of Phillip Lamberson of Winstead PC. Receipt Number 3112761165, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #58 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>58</u> Motion to Appear pro hac vice of John E. Lucian of Blank Rome LLP. Receipt Number 3112548736, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #59 ON 10/22/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>59</u> Notice of Appearance and Request for Notice by Michael I. Baird filed by Interested Party Pension Benefit Guaranty Corporation . (Attachments: # <u>1</u> Certification of United States Government Attorney # <u>2</u> Certificate of Service) (Baird, Michael) [ORIGINALLY FILED AS DOCUMENT #60 ON 10/23/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.)
12/04/2019	<u>60</u> Order Granting Motion for Admission pro hac vice for Rakhee V. Patel (Related Doc # 57) Order Signed on 10/24/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #61 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>61</u> Order Granting Motion for Admission pro hac vice of John E. Lucian (Related Doc # 59) Order Signed on 10/24/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #62 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>62</u> Order Granting Motion for Admission pro hac vice of Phillip Lamberson (Related Doc # 58) Order Signed on 10/24/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #63 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	

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	<u>63</u> Notice of Appearance and Request for Notice by Michael L. Vild filed by Creditor Patrick Daugherty . (Vild, Michael) [ORIGINALLY FILED AS DOCUMENT #64 ON 10/24/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>64</u> Notice of Appointment of Creditors' Committee Filed by U.S. Trustee. (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #65 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>65</u> Request of US Trustee to Schedule Section 341 Meeting of Creditors November 20,2019 at 9:30 a.m. Filed by U.S. Trustee. (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #66 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>66</u> Notice of Meeting of Creditors/Commencement of Case Filed by Highland Capital Management, L.P.. 341(a) meeting to be held on 11/20/2019 at 09:30 AM at J. Caleb Boggs Federal Building, 844 King St., Room 3209, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #67 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>67</u> Motion to Authorize /Motion of the Debtor for Entry of an Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. Section 1505 and (II) Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Form of Order # <u>3</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #68 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A # <u>3</u> Exhibit B # <u>4</u> Exhibit C – Proposed Order # <u>5</u> 2016 Statement # <u>6</u> Declaration Frank Waterhouse # <u>7</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)
12/04/2019	<u>69</u> **WITHDRAWN per #437. Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Hurst Declaration # <u>3</u> Exhibit B – Proposed Order # <u>4</u> 2016 Statement # <u>5</u> Declaration Frank Waterhouse # <u>6</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified on 2/11/2020 (Ecker, C.). (Entered: 12/05/2019)
12/04/2019	<u>70</u> Application/Motion to Employ/Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019(Attachments: # <u>1</u> Notice # <u>2</u> Rule 2016 Statement # <u>3</u> Declaration of Jeffrey N. Pomerantz in Support # <u>4</u> Declaration of Frank Waterhouse # <u>5</u> Proposed Form of Order # <u>6</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #71 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Main Document 70 replaced on 2/16/2022) (Okafor, Marcey). Additional attachment(s) added on 2/16/2022 (Okafor, Marcey). (Entered: 12/05/2019)

12/04/2019	<u>71</u> Notice of Withdrawal of Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing the Use of Cash Collateral, (B) Providing Adequate Protection, (C) Authorizing the Liquidation of Securities, (D) Modifying the Automatic Stay, and (E) Scheduling a Final Hearing (related document(s)6) Filed by Highland Capital Management, L.P. (Attachments: # <u>1</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #72 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>72</u> Motion for Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #73 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>73</u> Application/Motion to Employ/Retain Kurtzman Carson Consultants as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Exhibit B – Gershbein Declaration # <u>4</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #74 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>74</u> Application/Motion to Employ/Retain Development Specialists, Inc. as Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc As of the Petition Date Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Engagement Letter # <u>3</u> Exhibit B – Sharp Declaration # <u>4</u> Exhibit C – Proposed Order # <u>5</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #75 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Exhibit B – OCP List # <u>4</u> Exhibit C – Form of Declaration of Disinterestedness # <u>5</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>76</u> **WITHDRAWN by # <u>360</u> ** Motion to Approve /Precautionary Motion of the Debtor for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Appendix I # <u>3</u> Appendix II # <u>4</u> Proposed Form of Order # <u>5</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #77 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified on 1/16/2020 (Ecker, C.). (Entered: 12/05/2019)
12/04/2019	<u>77</u> Notice of Appearance and Request for Notice by William A. Hazeltine filed by Interested Party Hunter Mountain Trust . (Okafor, M.) (Hazeltine, William)

	[ORIGINALLY FILED AS DOCUMENT #78 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). (Entered: 12/05/2019)
12/04/2019	<u>78</u> Notice of Meeting of Creditors/Commencement of Case (Corrected) Filed by Highland Capital Management, L.P.. 341(a) meeting to be held on 11/20/2019 at 09:30 AM at J. Caleb Boggs Federal Building, 844 King St., Room 3209, Wilmington, Delaware. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #79 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>79</u> Motion to Appear pro hac vice of Brian P. Shaw of Rogge Dunn Group. Receipt Number 0311-27677, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Bibiloni, Jose) [ORIGINALLY FILED AS DOCUMENT #80 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>80</u> Amended Notice of Appearance. The party has consented to electronic service. Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Attachments: # <u>1</u> Certificate of Service) (Bibiloni, Jose) [ORIGINALLY FILED AS DOCUMENT #81 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>81</u> Notice of Appearance and Request for Notice by Jessica Boelter , Alyssa Russell , Matthew A. Clemente , Bojan Guzina filed by Creditor Committee Official Committee of Unsecured Creditors . (Guzina, Bojan) [ORIGINALLY FILED AS DOCUMENT #82 ON 10/30/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>82</u> Initial Reporting Requirements /Initial Monthly Operating Report of Highland Capital Management, LP Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #83 ON 10/31/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>83</u> Order Approving Motion for Admission pro hac vice Brian P. Shaw(Related Doc # 80) Order Signed on 11/1/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #84 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>84</u> Notice of Appearance and Request for Notice by Sarah E. Silveira , Michael J. Merchant , Asif Attarwala , Jeffrey E. Bjork filed by Interested Parties UBS AG London Branch , UBS Securities LLC . (Attachments: # <u>1</u> Certificate of Service) (Merchant, Michael) [ORIGINALLY FILED AS DOCUMENT #85 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>85</u> Motion to Change Venue/Inter-district Transfer Filed by Official Committee of Unsecured Creditors. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E – Certificate of Service) (Guzina, Bojan)[ORIGINALLY FILED AS DOCUMENT #86 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>86</u> Emergency Motion to Shorten Notice With Respect To The Motion Of Official Committee Of Unsecured Creditors To Transfer Venue Of This Case To The United States Bankruptcy Court For The Northern District Of Texas (related document(s)86) Filed by Official Committee of Unsecured Creditors. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Certificate of Service) (Guzina, Bojan) [ORIGINALLY FILED AS DOCUMENT #87 ON 11/01/2019 IN U.S. BANKRUPTCY COURT FOR THE

	DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>87</u> Order Denying Emergency Motion to Shorten Notice With Respect to The Motion of Official Committee of Unsecured Creditors to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District Of Texas (Related Doc # 87) Order Signed on 11/4/2019. (JS) [ORIGINALLY FILED AS DOCUMENT #88 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>88</u> Notice of Appearance. The party has consented to electronic service. Filed by Jefferies LLC. (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #89 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>89</u> Motion to Appear pro hac vice of Patrick C. Maxcy. Receipt Number 2770240, Filed by Jefferies LLC. (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #90 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>90</u> Motion to Appear pro hac vice of Lauren Macksoud. Receipt Number 2770389, Filed by Jefferies LLC. (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #91 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>91</u> Notice of Appearance. The party has consented to electronic service. Filed by INTEGRATED FINANCIAL ASSOCIATES, INC. (Carlyon, Candace) [ORIGINALLY FILED AS DOCUMENT #92 ON 11/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>92</u> Order Approving Motion for Admission pro hac vice Patrick C. Maxcy(Related Doc # 90) Order Signed on 11/5/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #93 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>93</u> Order Approving Motion for Admission pro hac vice Lauren Macksoud(Related Doc # 91) Order Signed on 11/5/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #94 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>94</u> HEARING CANCELLED. Notice of Agenda of Matters not going forward. The following hearing has been cancelled. Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/7/2019 at 03:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #95 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>95</u> Notice of Appearance. The party has consented to electronic service. Filed by BET Investments, II, L.P.. (Attachments: # <u>1</u> Certificate of Service) (Kurtzman, Jeffrey) (Attachments: # <u>1</u> Certificate of Service) [ORIGINALLY FILED AS DOCUMENT #96 ON 11/05/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>96</u> Certification of Counsel Regarding Order Scheduling Omnibus Hearing Date Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Proposed Form of Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #97 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

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12/04/2019	<u>98</u> Order Scheduling Omnibus Hearings. Omnibus Hearings scheduled for 12/17/2019 at 11:00 AM US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Signed on 11/7/2019. (CAS) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #98 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>101</u> Exhibit(s) // Notice of Filing of Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)76) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #99 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>102</u> Affidavit/Declaration of Service for service of [Signed] Order Scheduling Omnibus Hearing Date [Docket No. 98] (related document(s)98) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #100 ON 11/07/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>103</u> Notice of Deposition – Notice to Take Rule 30(b)(6) Deposition Upon Oral Examination of the Debtor, Highland Capital Management, L.P. Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #101 ON 11/10/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>104</u> Notice of Deposition of Frank Waterhouse Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #102 ON 11/10/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>106</u> Notice of Service – Notice of Intent to Serve Subpoena Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #103 ON 11/10/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>107</u> Notice of Substitution of Counsel Filed by Alvarez & Marsal CRF Management, LLC, as Investment Manager of the Highland Crusader Funds. (Attachments: # <u>1</u> Certificate of Service) (Ryan, Jeremy) [ORIGINALLY FILED AS DOCUMENT #104 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>108</u> Amended Notice of Appearance. The party has consented to electronic service. Filed by Official Committee of Unsecured Creditors. (Beach, Sean) . [ORIGINALLY FILED AS DOCUMENT #105 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>110</u> Motion to Appear pro hac vice Of Bojan Guzina of Sidley Austin LLP. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #106 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>111</u> Motion to Appear pro hac vice of Alyssa Russell of Sidley Austin LLP. Receipt Number 2620330, Filed by Official Committee of Unsecured Creditors. (Beach, Sean)[ORIGINALLY FILED AS DOCUMENT #107 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	

	<u>112</u> Motion to Appear pro hac vice of Matthew A. Clemente of Sidley Austin LLP. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #108 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>113</u> Motion to Appear pro hac vice of Paige Holden Montgomery. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #109 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>114</u> Motion to Appear pro hac vice of Penny P. Reid of Sidley Austin. Receipt Number 2775584, Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #110 ON 11/11/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>115</u> Order Approving Motion for Admission pro hac vice Bojan Guzina(Related Doc # 106) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #111 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>116</u> Order Approving Motion for Admission pro hac vice Alyssa Russell (Related Doc # 107) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #112 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>117</u> Order Approving Motion for Admission pro hac vice Matthew A. Clemente (Related Doc # 108) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #113 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>118</u> Order Approving Motion for Admission pro hac vice Paige Holden(Related Doc # 109) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #114 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>119</u> Order Approving Motion for Admission pro hac vice Penny P. Reid(Related Doc # 110) Order Signed on 11/12/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #115 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>120</u> Limited Objection to the Debtors: (I) Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date; and (II) Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date (related document(s)69, 70) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Certificate of Service) (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #116 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>121</u> Limited Objection and Reservation of Rights of Jefferies LLC to Debtor's Motion for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business (related document(s)77) Filed by Jefferies LLC (Attachments: # <u>1</u> Exhibit A # <u>2</u> Certificate of Service) (Bowden, William) [ORIGINALLY FILED AS DOCUMENT #117 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>122</u> Objection of the Debtor to Motion of Official Committee of Unsecured Creditors to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86) Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #118 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>123</u> Limited Objection to Motion of the Debtor for an Order Authorizing the Debtor to Retain, Employee, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business (related document(s)76) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #119 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>124</u> <b>**WITHDRAWN per # 456**</b> Limited Objection to the Debtor's Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP and Lynn Pinker Cox & Hurst as Special Texas Counsel and Special Litigation Counsel, Nunc Pro Tunc to the Petition Date (related document(s)69, 70) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #120 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified on 2/19/2020 (Ecker, C.). (Entered: 12/05/2019)
12/04/2019	<u>125</u> Limited Objection to the Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief (related document(s)3) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #121 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>126</u> Joinder to Motion of the Official Committee of Unsecured Creditors For an Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #122 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>127</u> Motion to File Under Seal of the Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtors (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/19/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Proposed Form of Order) [ORIGINALLY FILED AS DOCUMENT #123 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>128</u> [SEALED in Delaware Bankruptcy Court] Omnibus Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (related document(s)5, 75, 77, 123) Filed by Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #124 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>130</u> Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development

	Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (Redacted) (related document(s)5, 75, 77, 123, 124) Filed by Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E)(Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #125 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>131</u> Notice of Service of Discovery Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #126 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>132</u> Objection Motion of Debtor for Entry of Order Authorizing Debtor to File Under Seal Portions of Creditor Matrix Containing Employee Address Information (related document(s)8) Filed by U.S. Trustee (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #127 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>133</u> Certificate of Service of Objection of the Debtor to Motion of Official Committee of Unsecured Creditors to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)118) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #128 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) Modified text on 12/5/2019 (Okafor, M.). (Entered: 12/05/2019)
12/04/2019	<u>134</u> Certificate of Service of Acis's Joinder in Motion to Transfer Venue (related document(s)122) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #129 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>135</u> Objection U.S. Trustee's Objection to the Motion of Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Provide a Chief Restructuring Officer, Additional Personnel and Financial Advisory and Restructuring Related Services, Nunc Pro Tunc as of the Petition Date (related document(s)75) Filed by U.S. Trustee (Attachments: # <u>1</u> Certificate of Service)(Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #130 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>136</u> Certificate of Service of United States Trustees Objection to Motion of Debtor for Entry of Order Authorizing Debtor to File Under Seal Portions of Creditor Matrix Containing Employee Address Information (related document(s)127) Filed by U.S. Trustee. (Leamy, Jane) [ORIGINALLY FILED AS DOCUMENT #131 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>137</u> Certification of Counsel Regarding Debtor's Motion Pursuant to Sections 105(A), 330 and 331 of the Bankruptcy Code for Administrative Order Establishing Procedures for the Interim Compensation and Reimbursement of Expenses of Professionals (related document(s)73) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Blackline Order)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #132 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>138</u> Certificate of No Objection Regarding Debtor's Application for Authorization to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date (related document(s)74) Filed by Highland Capital

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	Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #133 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>139</u> Certificate of No Objection Regarding Motion of the Debtor for Entry of an Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief (related document(s)4) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #134 ON 11/13/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>140</u> Notice of Appearance. The party has consented to electronic service. Filed by Crescent TC Investors, L.P.. (Held, Michael) [ORIGINALLY FILED AS DOCUMENT #135 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>141</u> ORDER ESTABLISHING PROCEDURES FOR INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS(Related Doc # 73) Order Signed on 11/14/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #136 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>142</u> ORDER AUTHORIZING THE DEBTOR TO EMPLOY AND RETAIN KURTZMAN CARSON CONSULTANTS LLC AS ADMINISTRATIVE ADVISOR EFFECTIVE NUNC PRO TUNC TO THE PETITION DATE (Related Doc # 74) Order Signed on 11/14/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #137 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>143</u> ORDER (I) EXTENDING TIME TO FILE SCHEDULES OF ASSETS AND LIABILITIES, SCHEDULES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND STATEMENT OF FINANCIAL AFFAIRS, AND (II) GRANTING RELATED RELIEF (Related Doc # 4) Order Signed on 11/14/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #138 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>144</u> Notice of Appearance. The party has consented to electronic service. Filed by Intertrust Entities. (Desgrosseilliers, Mark) [ORIGINALLY FILED AS DOCUMENT #139 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>145</u> Notice of Appearance. The party has consented to electronic service. Filed by CLO Entities. (Desgrosseilliers, Mark) [ORIGINALLY FILED AS DOCUMENT #140 ON 11/14/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>146</u> Notice of Deposition Upon Oral Examination Under Rules 30 and 30(b)(6) of the Debtor, Highland Capital Management, L.P. Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #141 ON 11/15/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>147</u> Notice of Agenda of Matters Scheduled for Hearing Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware (Attachments: # <u>1</u> Certificate of Service) [ORIGINALLY FILED AS DOCUMENT #142 ON 11/15/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>148</u> Affidavit/Declaration of Service for service of (1) [Signed] Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals [Docket No. 136]; (2) [Signed] Order Authorizing the Debtor to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date [Docket No. 137]; and (3) [Signed] Order (I) Extending Time to File Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Statement of Financial Affairs, and (II) Granting Related Relief [Docket No. 138] (related document(s)136, 137, 138) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #143 ON 11/15/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>149</u> Notice of Hearing regarding Motion to Change Venue/Inter-district Transfer (related document(s)86, 87, 88) Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 12/2/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #144 ON 11/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>150</u> Notice of Rescheduled 341 Meeting (related document(s)67, 79) Filed by Highland Capital Management, L.P.. 341(a) meeting to be held on 12/3/2019 at 10:30 AM (check with U.S. Trustee for location) (Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #145 ON 11/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>151</u> Agenda of Matters Scheduled for Telephonic Hearing (related document(s)142) Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware.(Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #146 ON 11/18/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>152</u> Notice of Appearance. The party has consented to electronic service. Filed by CLO Holdco, Ltd.. (Kane, John) [ORIGINALLY FILED AS DOCUMENT #149 ON 11/19/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>153</u> Amended Notice of Deposition of Frank Waterhouse Filed by Official Committee of Unsecured Creditors. (Guerke, Kevin) [ORIGINALLY FILED AS DOCUMENT #150 ON 11/19/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>154</u> Notice of Appearance and Request for Notice by Sally T. Siconolfi , Joseph T. Moldovan filed by Interested Party Meta-e Discovery, LLC . (Moldovan, Joseph)[ORIGINALLY FILED AS DOCUMENT #152 ON 11/20/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>156</u> Affidavit/Declaration of Service regarding Notice of Hearing regarding Motion to Change Venue/Inter-district Transfer (related document(s)144) Filed by Official Committee of Unsecured Creditors. (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #153 ON 11/20/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>158</u> Motion to Appear pro hac vice of Annmarie Chiarello of Winstead PC. Receipt Number 0311-27843, Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P.. (Bibiloni, Jose) [ORIGINALLY FILED AS DOCUMENT #154 ON 11/20/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Additional attachment(s) added on 12/5/2019 (Okafor, M.). (Entered: 12/05/2019)

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	12/05/2019)
12/04/2019	<u>159</u> Order Approving Motion for Admission pro hac vice Annmarie Chiarello (Related Doc # 154) Order Signed on 11/21/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #155 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Additional attachment(s) added on 12/5/2019 (Okafor, M.). (Entered: 12/05/2019)
12/04/2019	<u>162</u> Reply in Support of Motion to Transfer Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86, 118) Filed by Official Committee of Unsecured Creditors (Beach, Sean) [ORIGINALLY FILED AS DOCUMENT #156 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>163</u> Reply in Support of the Motion of the Official Committee of Unsecured Creditors For an Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86, 118, 122, 156) Filed by Acis Capital Management GP LLC, Acis Capital Management, L.P. (Mintz, Josef) [ORIGINALLY FILED AS DOCUMENT #157 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>164</u> Response of the Debtor to Acis's Joinder to Motion to Transfer Venue (related document(s)86, 122) Filed by Highland Capital Management, L.P. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #158 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>165</u> Omnibus Reply In Support of (I) Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner as Special Texas Counsel Nunc Pro Tunc to the Petition Date; and (II) Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Nunc Pro Tunc to Petition Date (related document(s)69, 70, 116, 120) Filed by Highland Capital Management, L.P.(Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #159 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) Modified text on 12/5/2019 (Okafor, M.). (Entered: 12/05/2019)
12/04/2019	<u>166</u> Omnibus Reply of the Debtor in Support of: (1) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions (related document(s)5, 75, 77) Filed by Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Redline Order Approving Ordinary Course Protocols Motion # <u>2</u> Exhibit B – Redline Order Approving Cash Management Motion # <u>3</u> Exhibit C – Redline Order Approving DSI Retention Motion # <u>4</u> Exhibit D – Summary of Intercompany Transactions) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #160 ON 11/21/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>168</u> Certificate of Service of 1) Response of the Debtor to Acis's Joinder to Motion to Transfer Venue; 2) Omnibus Reply In Support of (I) Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner as Special Texas Counsel Nunc Pro Tunc to the Petition Date, and (II) Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox & Hurst LLP; and 3) Omnibus Reply of the Debtor in Support of: (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions (related document(s)158, 159, 160) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #161 ON 11/22/2019 IN U.S. BANKRUPTCY COURT FOR THE

	DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>169</u> Exhibit(s) // Notice of Filing of Second Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)76, 99) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #162 ON 11/25/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>170</u> Certification of Counsel Regarding Motion of Debtor for Entry of Interim and Final Orders (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief (related document(s)3, 40) Filed by Highland Capital Management, L.P..(Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #163 ON 11/25/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>171</u> <b>**WITHDRAWN**</b> – 11/26/2019. SEE DOCKET # 165. Certification of Counsel Regarding Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business (related document(s)76, 99, 162) Filed by Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (O'Neill, James) Modified on 11/26/2019 (DMC). [ORIGINALLY FILED AS DOCUMENT #164 ON 11/25/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>172</u> Notice of Withdrawal of Certification of Counsel Regarding Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)164) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #165 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>173</u> Certification of Counsel Regarding Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized By the Debtor in the Ordinary Course of Business (related document(s)76, 99, 162) Filed by Highland Capital Management, L.P (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #166 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>174</u> Notice of Agenda of Matters Scheduled for Hearing Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/2/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. (Attachments: # <u>1</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #167 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>175</u> FINAL ORDER (A) AUTHORIZING THE DEBTOR TO PAY CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS AND (B) GRANTING RELATED RELIEF (Related document(s) 3, 40) Signed on 11/26/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #168 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

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12/04/2019	<u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>178</u> Supplemental Declaration in Support of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014–1 for Authorization to Employ and Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date (related document(s)71) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #171 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>179</u> Certification of Counsel Regarding Debtor's Application Pursuant to Section 327(A) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014–1 for Authorization to Employ and Retain Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date (related document(s)71) Filed by Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Blackline Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #172 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE](Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # <u>1</u> Notice # <u>2</u> Exhibit A – Proposed Order # <u>3</u> Exhibit B – Declaration of John Dempsey in Support # <u>4</u> Exhibit C – Highland Key Employee Incentives # <u>5</u> Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>181</u> Certificate of Service and Service List for service of Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief [Docket No. 170] (related document(s)170) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #174 ON 11/27/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>182</u> Amended Notice of Agenda of Matters Scheduled for Hearing (related document(s)167) Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/2/2019 at 10:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware (Attachments: # <u>1</u> Certificate of Service)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #175 ON 11/27/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>183</u> ORDER PURSUANT TO SECTION 327(a) OF THE BANKRUPTCY CODE, RULE 2414 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND LOCAL RULE 2014–1 AUTHORIZING THE EMPLOYMENT AND RETENTION OF PACHULSKI TANG ZIEHL & JONES LLP AS COUNSEL FOR THE DEBTOR AND DEBTOR IN POSSESSION NUNC PRO TUNC TO THE PETITION DATE (Related Doc # 71) Order Signed on 12/2/2019. (DRG) [ORIGINALLY FILED AS DOCUMENT #176 ON 12/02/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)

12/04/2019	<u>184</u> Certification of Counsel Regarding Order Transferring Venue of This Case to the United States Bankruptcy Court for the Northern District of Texas (related document(s)86) Filed by Official Committee of Unsecured Creditors. (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #182 ON 12/03/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>185</u> Affidavit/Declaration of Service for service of (1) [Signed] Final Order (A) Authorizing Debtor to Pay Prepetition Claims of Critical Vendors and (B) Granting Related Relief [Docket No. 168]; (2) [Signed] Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business [Docket No. 169]; and (3) [Signed] Order Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 Authorizing the Employment and Retention of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date [Docket No. 176] (related document(s)168, 169, 176) Filed by Highland Capital Management, L.P.. (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #183 ON 12/03/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>186</u> ORDER TRANSFERRING VENUE OF THIS CASE TO THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS (related document(s)86) Order Signed on 12/4/2019. (CAS) [ORIGINALLY FILED AS DOCUMENT #184 ON 12/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/04/2019	<u>187</u> Certificate of Service re: 1) Notice of Chapter 11 Bankruptcy Case; and 2) [Corrected] Notice of Chapter 11 Bankruptcy Case (related document(s)67, 79) Filed by Kurtzman Carson Consultants LLC. (Kass, Albert) ( [ORIGINALLY FILED AS DOCUMENT #185 ON 12/04/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Entered: 12/05/2019)
12/05/2019	<u>97</u> Motion to appear pro hac vice for Bojan Guzina. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27228141, amount \$ 100.00 (re: Doc# <u>97</u> ). (U.S. Treasury)
12/05/2019	<u>99</u> Notice of Appearance and Request for Notice by Linda D. Reece filed by Wylie ISD, Garland ISD, City of Garland. (Reece, Linda)
12/05/2019	<u>100</u> Motion to appear pro hac vice for Matthew A. Clemente. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/05/2019	<u>105</u> Motion to appear pro hac vice for Alyssa Russell. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27228455, amount \$ 100.00 (re: Doc# <u>100</u> ). (U.S. Treasury)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27228455, amount \$ 100.00 (re: Doc# <u>105</u> ). (U.S. Treasury)
12/05/2019	<u>109</u> Motion to appear pro hac vice for Ira D. Kharasch. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)

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12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27228644, amount \$ 100.00 (re: Doc# <u>109</u> ). (U.S. Treasury)
12/05/2019	<u>129</u> Notice of Appearance and Request for Notice by Laurie A. Spindler filed by City of Allen, Allen ISD, Dallas County, Grayson County, Irving ISD, Kaufman County, Tarrant County. (Spindler, Laurie)
12/05/2019	<u>155</u> Notice of Appearance and Request for Notice by Mark A. Platt filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Platt, Mark)
12/05/2019	<u>157</u> Motion to appear pro hac vice for Marc B. Hankin. Fee Amount \$100 Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Platt, Mark)
12/05/2019	<u>160</u> Motion to appear pro hac vice for Richard Levin. Fee Amount \$100 Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Addendum) (Platt, Mark)
12/05/2019	<u>161</u> Motion to appear pro hac vice for Terri L. Mascherin. Fee Amount \$100 Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Platt, Mark)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27229964, amount \$ 100.00 (re: Doc# <u>157</u> ). (U.S. Treasury)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27229964, amount \$ 100.00 (re: Doc# <u>160</u> ). (U.S. Treasury)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27229964, amount \$ 100.00 (re: Doc# <u>161</u> ). (U.S. Treasury)
12/05/2019	<u>167</u> Motion to appear pro hac vice for Gregory V. Demo. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/05/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27230422, amount \$ 100.00 (re: Doc# <u>167</u> ). (U.S. Treasury)
12/05/2019	<u>188</u> Notice of Appearance and Request for Notice by Juliana Hoffman filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
12/06/2019	<u>189</u> Motion to appear pro hac vice for Jeffrey N. Pomerantz. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/06/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27233957, amount \$ 100.00 (re: Doc# <u>189</u> ). (U.S. Treasury)
12/06/2019	<u>190</u> Amended Motion to appear pro hac vice for Jeffrey N. Pomerantz. (related document: <u>189</u> ) Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/06/2019	<u>191</u> Motion to appear pro hac vice for John A. Morris. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric)
12/06/2019	

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	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27233983, amount \$ 100.00 (re: Doc# <u>191</u> ). (U.S. Treasury)
12/06/2019	<u>192</u> INCORRECT ENTRY – Incorrect Event Used; Refiled as Document <u>220</u> . Motion to withdraw as attorney (Eric T. Haitz) Filed by Debtor Highland Capital Management, L.P. (Haitz, Eric) Modified on 12/9/2019 (Dugan, S.). Modified on 12/9/2019 (Dugan, S.).
12/06/2019	<u>193</u> Hearing held on 12/6/2019., Hearing continued (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.,) (Continued Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , (Edmond, Michael)
12/06/2019	<u>194</u> Hearing held on 12/6/2019., Hearing continued (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)) Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , (Appearances: C. Gibbs, introducing J. Pomerantz and I. Kharasch for Debtor (also J. Morris on phone); M. Clemente and P. Reid for Official Committee of Unsecured Creditors; B. Shaw for Acis; M. Platt for Redeemer Committee of Crusader Fund (also on phone M. Hankin and T. Mascherin); M. Rosenthal for Alvarez and Marsal; P. Maxcy (telephonically) for Jeffries; L. Lambert for UST. Nonevidentiary status conference. Court heard reports about case, parties, and ongoing discussions regarding corporate governance. Schedules will be filed next 12/13/19. At request of parties, another status conference is set for 12/12/19 at 9:30 am (telephonic participation will be allowed if requested). At current time, parties are not requesting that pending motions be set.) (Edmond, Michael)
12/06/2019	<u>195</u> Request for transcript regarding a hearing held on 12/6/2019. The requested turn-around time is hourly. (Edmond, Michael)
12/06/2019	<u>196</u> Order granting motion to appear pro hac vice adding Bojan Guzina for Official Committee of Unsecured Creditors (related document # <u>97</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>197</u> Order granting motion to appear pro hac vice adding Matthew A. Clemente for Official Committee of Unsecured Creditors (related document # <u>100</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>198</u> Order granting motion to appear pro hac vice adding Alyssa Russell for Official Committee of Unsecured Creditors (related document # <u>105</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>199</u> Order granting motion to appear pro hac vice adding Ira D Kharasch for Highland Capital Management, L.P. (related document # <u>109</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>200</u> Order granting motion to appear pro hac vice adding Richard B. Levin for Redeemer Committee of the Highland Crusader Fund (related document # <u>160</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>201</u> Order granting motion to appear pro hac vice adding Terri L. Mascherin for Redeemer Committee of the Highland Crusader Fund (related document # <u>161</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>202</u> Order granting motion to appear pro hac vice adding Gregory V Demo for Highland Capital Management, L.P. (related document # <u>167</u> ) Entered on 12/6/2019. (Banks, Courtney)

12/06/2019	<u>203</u> Order granting motion to appear pro hac vice adding Marc B. Hankin for Redeemer Committee of the Highland Crusader Fund (related document # <u>157</u> ) Entered on 12/6/2019. (Banks, Courtney)
12/06/2019	<u>204</u> INCORRECT ENTRY: DRAFT OF MOTION. SEE DOCUMENT 206. Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING THE RETENTION AND EMPLOYMENT OF SIDLEY AUSTIN LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, NUNC PRO TUNC TO OCTOBER 29, 2019</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana) Modified on 12/18/2019 (Rielly, Bill).
12/06/2019	<u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS NUNC PRO TUNC TO NOVEMBER 6, 2019</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/06/2019	<u>206</u> Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING THE RETENTION AND EMPLOYMENT OF SIDLEY AUSTIN LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, NUNC PRO TUNC TO OCTOBER 29, 2019</i> (related document: <u>204</u> ) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana) Modified on 12/18/2019 (Rielly, Bill).
12/06/2019	<u>220</u> Withdrawal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>41</u> Notice of appearance and request for notice). (Dugan, S.) (Entered: 12/09/2019)
12/08/2019	<u>207</u> Transcript regarding Hearing Held 12/6/19 RE: Status and scheduling conference. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/9/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Palmer Reporting Services, Telephone number PalmerRptg@aol.com, 800-665-6251. (RE: related document(s) 193 Hearing held on 12/6/2019., Hearing continued (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.,) (Continued Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , 194 Hearing held on 12/6/2019., Hearing continued (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P. (Okafor, M.)) Hearing to be held on 12/12/2019 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1</u> , (Appearances: C. Gibbs, introducing J. Pomerantz and I. Kharasch for Debtor (also J. Morris on phone); M. Clemente and P. Reid for Official Committee of Unsecured Creditors; B. Shaw for Acis; M. Platt for Redeemer Committee of Crusader Fund (also on phone M. Hankin and T. Mascherin); M. Rosenthal for Alvarez and Marsal; P. Maxcy (telephonically) for Jeffries; L. Lambert for UST. Nonevidentiary status conference. Court heard reports about case, parties, and ongoing discussions regarding corporate governance. Schedules will be filed next 12/13/19. At request of parties, another status conference is set for 12/12/19 at 9:30 am (telephonic participation will be allowed if requested). At current time, parties are not requesting that pending motions be set.)). Transcript to be made available to the public on 03/9/2020. (Palmer, Susan)

12/08/2019	<u>208</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>197</u> Order granting motion to appear pro hac vice adding Matthew A. Clemente for Official Committee of Unsecured Creditors (related document <u>100</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>209</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>198</u> Order granting motion to appear pro hac vice adding Alyssa Russell for Official Committee of Unsecured Creditors (related document <u>105</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>210</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>199</u> Order granting motion to appear pro hac vice adding Ira D Kharasch for Highland Capital Management, L.P. (related document <u>109</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>211</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>200</u> Order granting motion to appear pro hac vice adding Richard B. Levin for Redeemer Committee of the Highland Crusader Fund (related document <u>160</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>212</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>201</u> Order granting motion to appear pro hac vice adding Terri L. Mascherin for Redeemer Committee of the Highland Crusader Fund (related document <u>161</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>213</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>202</u> Order granting motion to appear pro hac vice adding Gregory V Demo for Highland Capital Management, L.P. (related document <u>167</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/08/2019	<u>214</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>203</u> Order granting motion to appear pro hac vice adding Marc B. Hankin for Redeemer Committee of the Highland Crusader Fund (related document <u>157</u> ) Entered on 12/6/2019.) No. of Notices: 1. Notice Date 12/08/2019. (Admin.)
12/09/2019	<u>215</u> Acknowledgment of split/transfer case received FROM another district, Delaware, Delaware division, Case Number 19–12239. (Okafor, M.)
12/09/2019	<u>216</u> Order granting motion to appear pro hac vice adding Jeffrey N. Pomerantz for Highland Capital Management, L.P. (related document # <u>190</u> ) Entered on 12/9/2019. (Banks, Courtney)
12/09/2019	<u>217</u> Order granting motion to appear pro hac vice adding John A. Morris for Highland Capital Management, L.P. (related document # <u>191</u> ) Entered on 12/9/2019. (Banks, Courtney)
12/09/2019	<u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab Objections due by 12/23/2019. (Attachments: # <u>1</u> Declaration # <u>2</u> Proposed Order) (Crooks, David)
12/09/2019	<u>219</u> Notice of Appearance and Request for Notice by Charles Martin Persons Jr. filed by Creditor Committee Official Committee of Unsecured Creditors. (Persons, Charles)
12/09/2019	Receipt of filing fee for Motion for relief from stay(19–34054–sgj11) [motion,mrlfsty] ( 181.00). Receipt number 27240994, amount \$ 181.00 (re: Doc# <u>218</u> ). (U.S. Treasury)

12/09/2019	<u>221</u> Notice of Appearance and Request for Notice by Brian Patrick Shaw filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Shaw, Brian)
12/09/2019	<u>222</u> Motion to appear pro hac vice for Dennis M. Twomey. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/09/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27241671, amount \$ 100.00 (re: Doc# <u>222</u> ). (U.S. Treasury)
12/09/2019	<u>223</u> Certificate of service re: 1) <i>Application Pursuant to Fed. R. Bankr. P. 2014(a) for Order Under Section 1103 of the Bankruptcy Code Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors Nunc Pro Tunc to November 6, 2019; and 2) [Amended] Application of the Official Committee of Unsecured Creditors, Pursuant to Sections 328 and 1103 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2014, for an Order Approving the Retention and Employment of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors, Nunc Pro Tunc to October 29, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS NUNC PRO TUNC TO NOVEMBER 6, 2019</i> Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING THE RETENTION AND EMPLOYMENT OF SIDLEY AUSTIN LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, NUNC PRO TUNC TO OCTOBER 29, 2019</i> (related document: <u>204</u> ) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/10/2019	<u>224</u> Certificate Certificate of Conference filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab (RE: related document(s) <u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181.). (Crooks, David)
12/10/2019	<u>225</u> Certificate of service re: Certificate of Service filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab (RE: related document(s) <u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181., <u>224</u> Certificate (generic)). (Attachments: # <u>1</u> Service List) (Crooks, David)
12/10/2019	<u>226</u> Application to employ Young Conaway Stargatt & Taylor, LLP as Attorney ( <i>Co-Counsel</i> ) <i>Nunc Pro Tunc</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/10/2019	<u>227</u> INCORRECT ENTRY: DEFICIENCIES ARE DUE 12/13/2019 – Notice of deficiency. Schedule A/B due 10/30/2019. Schedule D due 10/30/2019. Schedule E/F due 10/30/2019. Schedule G due 10/30/2019. Schedule H due 10/30/2019. Declaration Under Penalty of Perjury for Non-individual Debtors due 10/30/2019. Summary of Assets and Liabilities and Certain Statistical Information due 10/30/2019. Statement of Financial Affairs due 10/30/2019. (Okafor, M.) Modified on 12/10/2019 (Okafor, M.).



12/10/2019	<u>228</u> Notice of deficiency. Schedule A/B due 12/13/2019. Schedule D due 12/13/2019. Schedule E/F due 12/13/2019. Schedule G due 12/13/2019. Schedule H due 12/13/2019. Declaration Under Penalty of Perjury for Non-individual Debtors due 12/13/2019. Summary of Assets and Liabilities and Certain Statistical Information due 12/13/2019. Statement of Financial Affairs due 12/13/2019. (Okafor, M.)
12/10/2019	<u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s) certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020. (Neary, William)
12/10/2019	<u>230</u> Notice of Appearance and Request for Notice by Melissa S. Hayward filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
12/10/2019	<u>231</u> Notice of Appearance and Request for Notice by Zachery Z. Annable filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2019	<u>232</u> Joint Motion to continue hearing on (related documents 194 Hearing held, Hearing set/continued) <i>Joint Motion to Continue Status Conference</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Proposed Order # <u>2</u> Service List) (Hayward, Melissa)
12/11/2019	<u>233</u> Motion to appear pro hac vice for Michael I. Baird. Fee Amount \$100 Filed by Creditor Pension Benefit Guaranty Corporation (Attachments: # <u>1</u> Certificate of Service) (Baird, Michael)
12/11/2019	<u>234</u> Order granting joint motion to continue hearing on (related document # <u>232</u> ) (related documents Hearing held) Status Conference to be held on 12/18/2019 at 09:30 AM. Entered on 12/11/2019. (Banks, Courtney)
12/11/2019	<u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 10/16/2019 to 10/31/2019, Fee: \$383,583.75, Expenses: \$9,958.84. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/2/2020. (Pomerantz, Jeffrey)
12/11/2019	<u>236</u> Motion to appear pro hac vice for Lauren Macksoud. Fee Amount \$100 Filed by Interested Party Jefferies LLC (Doherty, Casey)
12/11/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27250084, amount \$ 100.00 (re: Doc# <u>236</u> ). (U.S. Treasury)
12/11/2019	<u>237</u> Motion to appear pro hac vice for Patrick C. Maxcy. Fee Amount \$100 Filed by Interested Party Jefferies LLC (Doherty, Casey)
12/11/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27250165, amount \$ 100.00 (re: Doc# <u>237</u> ). (U.S. Treasury)
12/11/2019	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] (0.00). Receipt Number KF - No Fee Due, amount \$ 0.00 (re: Doc <u>233</u> ). (Floyd)
12/11/2019	<u>238</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>216</u> Order granting motion to appear pro hac vice adding Jeffrey N. Pomerantz for Highland Capital Management, L.P. (related document <u>190</u> ) Entered on 12/9/2019.) No. of Notices: 1. Notice Date 12/11/2019. (Admin.)

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12/11/2019	<u>239</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>217</u> Order granting motion to appear pro hac vice adding John A. Morris for Highland Capital Management, L.P. (related document <u>191</u> ) Entered on 12/9/2019.) No. of Notices: 1. Notice Date 12/11/2019. (Admin.)
12/12/2019	<u>240</u> Notice of Appearance and Request for Notice by J. Seth Moore filed by Creditor Siepe, LLC. (Moore, J.)
12/12/2019	<u>241</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Charles Harder)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
12/12/2019	<u>242</u> Order granting motion to appear pro hac vice adding Michael I. Baird for Pension Benefit Guaranty Corporation (related document # <u>233</u> ) Entered on 12/12/2019. (Okafor, M.)
12/12/2019	<u>243</u> BNC certificate of mailing. (RE: related document(s) <u>227</u> INCORRECT ENTRY: DEFICIENCIES ARE DUE 12/13/2019 – Notice of deficiency. Schedule A/B due 10/30/2019. Schedule D due 10/30/2019. Schedule E/F due 10/30/2019. Schedule G due 10/30/2019. Schedule H due 10/30/2019. Declaration Under Penalty of Perjury for Non–individual Debtors due 10/30/2019. Summary of Assets and Liabilities and Certain Statistical Information due 10/30/2019. Statement of Financial Affairs due 10/30/2019. (Okafor, M.) Modified on 12/10/2019 (Okafor, M.)) No. of Notices: 8. Notice Date 12/12/2019. (Admin.)
12/12/2019	<u>244</u> BNC certificate of mailing. (RE: related document(s) <u>228</u> Notice of deficiency. Schedule A/B due 12/13/2019. Schedule D due 12/13/2019. Schedule E/F due 12/13/2019. Schedule G due 12/13/2019. Schedule H due 12/13/2019. Declaration Under Penalty of Perjury for Non–individual Debtors due 12/13/2019. Summary of Assets and Liabilities and Certain Statistical Information due 12/13/2019. Statement of Financial Affairs due 12/13/2019. (Okafor, M.)) No. of Notices: 8. Notice Date 12/12/2019. (Admin.)
12/13/2019	<u>245</u> Certificate of service re: <i>1) Application of the Official Committee of Unsecured Creditors to Retain and Employ Young Conaway Stargatt &amp; Taylor, LLP as Co–Counsel, Nunc Pro Tunc to November 8, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>226</u> Application to employ Young Conaway Stargatt & Taylor, LLP as Attorney ( <i>Co–Counsel</i> ) <i>Nunc Pro Tunc</i> Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/13/2019	<u>246</u> Certificate of service re: <i>1) First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from October 16, 2019 Through October 31, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 10/16/2019 to 10/31/2019, Fee: \$383,583.75, Expenses: \$9,958.84. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/2/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/13/2019	<u>247</u> Schedules: Schedules A/B and D–H with Summary of Assets and Liabilities (with Declaration Under Penalty of Perjury for Non–Individual Debtors.). Filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>228</u> Notice of deficiency). (Attachments: # <u>1</u> Global notes regarding schedules) (Hayward, Melissa)
12/13/2019	<u>248</u> Statement of financial affairs for a non–individual . Filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>228</u> Notice of deficiency). (Attachments: # <u>1</u> Global notes regarding SOFA) (Hayward, Melissa)

12/13/2019	<u>249</u> BNC certificate of mailing – meeting of creditors. (RE: related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.) No. of Notices: 8. Notice Date 12/13/2019. (Admin.)
12/13/2019	<u>250</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>234</u> Order granting joint motion to continue hearing on (related document <u>232</u> ) (related documents Hearing held) Status Conference to be held on 12/18/2019 at 09:30 AM. Entered on 12/11/2019.) No. of Notices: 1. Notice Date 12/13/2019. (Admin.)
12/16/2019	<u>251</u> Order granting motion to appear pro hac vice adding Lauren Macksoud for Jefferies LLC (related document # <u>236</u> ) Entered on 12/16/2019. (Dugan, S.)
12/16/2019	<u>252</u> Order granting motion to appear pro hac vice adding Patrick C. Maxcy for Jefferies LLC (related document # <u>237</u> ) Entered on 12/16/2019. (Dugan, S.)
12/16/2019	<u>253</u> Order rescheduling status conference (RE: related document(s) <u>1</u> Order transferring case filed by Debtor Highland Capital Management, L.P.). Status Conference to be held on 12/18/2019 at 10:30 AM at Dallas Judge Jernigan Ctrm. Entered on 12/16/2019 (Dugan, S.)
12/17/2019	<u>254</u> Notice of Appearance and Request for Notice by Jason Patrick Kathman filed by Creditor Patrick Daugherty. (Kathman, Jason)
12/18/2019	<u>255</u> Declaration re: <i>Supplemental Declaration In Support of</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T</i> ). (Hoffman, Juliana)
12/18/2019	Hearing held on 12/18/2019. (RE: related document(s) <u>1</u> Status/Scheduling Conference; Order transferring case number 19–12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Appearances: J. Pomerantz and I. Kharasch for Debtor; M. Hayward, local counsel for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; M. Platt and T. Mascherin and M. Hankin (each telephonically) for Redeemer Committee; L. Spindler for taxing authorities; A. Chiarello and R. Patel (telephonically) for Acis; L. Lambert for UST; P. Maxcy (telephonically) for Jeffries. Nonevidentiary status conference. Court heard reports regarding continued negotiations between Debtor and UCC regarding a proposed management structure for Debtor and ordinary course protocols. Debtor expects to file a motion for approval of same (if agreements reached) by 12/27/19 for a 1/9/20 hearing. Otherwise, UCC will file a motion for a chapter 11 trustee (which, if filed, will be filed 12/30/19 and set 1/20/20–1/21/20). Scheduling order to be submitted. Also, US Trustee announced intention to move for a Chapter 11 Trustee.) (Edmond, Michael)
12/18/2019	<u>256</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>251</u> Order granting motion to appear pro hac vice adding Lauren Macksoud for Jefferies LLC (related document <u>236</u> ) Entered on 12/16/2019. (Dugan, S.)) No. of Notices: 1. Notice Date 12/18/2019. (Admin.)
12/18/2019	<u>257</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>252</u> Order granting motion to appear pro hac vice adding Patrick C. Maxcy for Jefferies LLC (related document <u>237</u> ) Entered on 12/16/2019. (Dugan, S.)) No. of Notices: 1. Notice Date 12/18/2019. (Admin.)
12/19/2019	<u>258</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Dechert LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Demo, Gregory)



12/19/2019	<u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to maintain bank accounts.). (Hayward, Melissa)
12/19/2019	<u>260</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (ASW Law Limited) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/19/2019	<u>261</u> Certificate of service re: Disclosure Declaration of Ordinary Course Professional Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>241</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (Charles Harder) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/20/2019	<u>262</u> Certificate of service re: Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
12/20/2019	<u>263</u> Certificate of service re: Supplemental Declaration of Bojan Guzina in Support of Application of the Official Committee of Unsecured Creditors, Pursuant to Sections 328 and 1103 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2014, for an Order Approving the Retention and Employment of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>255</u> Declaration re: Supplemental Declaration In Support of filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/20/2019	<u>264</u> Certificate of service re: Supplement to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to maintain bank accounts.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/22/2019	<u>265</u> Objection to (related document(s): <u>176</u> Document)Limited Objection of The Official Committee of Unsecured Creditors to the Retention of Harder LLP as Ordinary Course Professional filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
12/23/2019	<u>266</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (Houlihan Lokey Financial Advisors Inc.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/23/2019	<u>267</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (Rowlett Law PLLC) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/23/2019	<u>268</u> Declaration re: Disclosure Declaration of Ordinary Course Professional (DLA Piper LLP (US)) filed by Debtor Highland Capital Management, L.P. (RE: related

	document(s) <u>176</u> Document). (Hayward, Melissa)
12/23/2019	<u>269</u> Agreed scheduling Order (RE: related document(s) <u>1</u> Order transferring case filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2019 (Blanco, J.)
12/23/2019	<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
12/23/2019	<u>271</u> Trustee's Motion to appoint trustee Filed by U.S. Trustee United States Trustee (Lambert, Lisa)
12/23/2019	<u>272</u> Trustee's Objection to <i>Motion to Seal Official Committee's Omnibus Objection and Supporting Exhibits</i> (RE: related document(s) <u>127</u> Document) (Lambert, Lisa)
12/23/2019	<u>273</u> Motion for leave to <i>Extend Deadline to Object to Motion for Relief of Stay of PensionDanmark</i> (related document(s) <u>218</u> Motion for relief from stay) Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/6/2020. (Hoffman, Juliana)
12/24/2019	<u>274</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Carey Olsen Cayman Limited)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/24/2019	<u>275</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Hunton Andrews Kurth LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/24/2019	<u>276</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Wilmer Cutler Pickering Hale and Dorr LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/25/2019	<u>277</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>269</u> Agreed scheduling Order (RE: related document(s) <u>1</u> Order transferring case filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2019 (Blanco, J.)) No. of Notices: 1. Notice Date 12/25/2019. (Admin.)
12/26/2019	<u>278</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Kim &amp; Chang)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Hayward, Melissa)
12/26/2019	<u>279</u> Certificate of service re: 1) <i>Disclosure Declaration of Ordinary Course Professional</i> ; 2) <i>Disclosure Declaration of Ordinary Course Professional</i> ; 3) <i>Declaration of Marc D. Katz</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>266</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Houlihan Lokey Financial Advisors Inc.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>267</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Rowlett Law PLLC)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>268</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (DLA Piper LLP (US))</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

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12/27/2019	<u>280</u> Motion for protective order. <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
12/27/2019	<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order) (Hayward, Melissa)
12/27/2019	<u>282</u> Support/supplemental document to the Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring Related Services, Nunc Pro Tunc as of the Petition Date filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Attachments: # <u>1</u> Exhibit A) (Hayward, Melissa)
12/27/2019	<u>283</u> Motion for expedited hearing(related documents <u>281</u> Motion to compromise controversy) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Hayward, Melissa)
12/28/2019	<u>284</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u> , (Attachments: # <u>1</u> Exhibit) (Hayward, Melissa)
12/28/2019	<u>285</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u> , (Attachments: # <u>1</u> Exhibit) (Hayward, Melissa)
12/30/2019	<u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1/2019 to 11/30/2019, Fee: \$798,767.50, Expenses: \$26,317.71. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/21/2020. (Pomerantz, Jeffrey)
12/30/2019	<u>287</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , (Hayward, Melissa)
12/31/2019	<u>288</u> Certificate No Objection to Retention of Sidley Austin LLP filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY</i>

	<i>PROCEDURE 2014, FOR AN ORDER APPROVING T). (Hoffman, Juliana)</i>
12/31/2019	<u>289</u> Debtor-in-possession monthly operating report for filing period November 1, 2019 to November 30, 2019 filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
12/31/2019	<u>290</u> Certificate No Objection to Retention of FTI Consulting, Inc. filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVIS</i> ). (Hoffman, Juliana)
12/31/2019	<u>291</u> Order granting motion for expedited hearing (Related Doc# <u>283</u> )(document set for hearing: <u>281</u> Motion to compromise controversy) Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , Entered on 12/31/2019. (Whitaker, Sheniqua)
01/02/2020	<u>292</u> Certificate of service re: 1) <i>Disclosure Declaration of Ordinary Course Professional</i> ; 2) <i>Disclosure Declaration Alexander G. McGeoch in Support of Hunton Andrews Kurth LLP as Ordinary Course Professional</i> ; 3) <i>Disclosure Declaration of Ordinary Course Professional</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>274</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Carey Olsen Cayman Limited)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>275</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Hunton Andrews Kurth LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>276</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Wilmer Cutler Pickering Hale and Dorr LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/02/2020	<u>293</u> Certificate of service re: <i>Disclosure Declaration of Ordinary Course Professional</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>278</u> Declaration re: <i>Disclosure Declaration of Ordinary Course Professional (Kim &amp; Chang)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/02/2020	<u>294</u> Certificate Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>226</u> Application to employ Young Conaway Stargatt & Taylor, LLP as Attorney ( <i>Co-Counsel</i> ) <i>Nunc Pro Tunc</i> ). (Hoffman, Juliana)
01/02/2020	<u>295</u> Notice of Appearance and Request for Notice by Edwin Paul Keiffer filed by Interested Party Hunter Mountain Trust. (Keiffer, Edwin)
01/02/2020	<u>296</u> Certificate of service re: <i>Documents Served on December 27, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors, <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>282</u> Support/supplemental document to the Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring Related Services, <i>Nunc Pro Tunc</i> as of the Petition Date filed by Debtor Highland Capital Management, L.P. (RE: related



	document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>283</u> Motion for expedited hearing(related documents <u>281</u> Motion to compromise controversy) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/02/2020	<u>297</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>291</u> Order granting motion for expedited hearing (Related Doc <u>283</u> )(document set for hearing: <u>281</u> Motion to compromise controversy) Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , Entered on 12/31/2019.) No. of Notices: 2. Notice Date 01/02/2020. (Admin.)
01/03/2020	<u>298</u> Order Regarding Telephonic Appearances Entered on 1/3/2020 (Okafor, M.)
01/03/2020	<u>299</u> Motion to extend time to (RE: related document(s) <u>273</u> Motion for leave) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/8/2020. (Hoffman, Juliana)
01/03/2020	<u>300</u> Order granting motion to appear pro hac vice adding Dennis M. Twomey for Official Committee of Unsecured Creditors (related document # <u>222</u> ) Entered on 1/3/2020. (Okafor, M.)
01/03/2020	<u>301</u> Order granting the joint motion to extend time to object to the motion of PensionDanmark's motion for relief from the automatic stay (related document # <u>273</u> ). The Committee and the Debtor shall have until January 6, 2020 to object to PensionDanmarks Stay Relief Motion Entered on 1/3/2020. (Okafor, M.)
01/05/2020	<u>302</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>298</u> Order Regarding Telephonic Appearances Entered on 1/3/2020 (Okafor, M.)) No. of Notices: 45. Notice Date 01/05/2020. (Admin.)
01/05/2020	<u>303</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>300</u> Order granting motion to appear pro hac vice adding Dennis M. Twomey for Official Committee of Unsecured Creditors (related document <u>222</u> ) Entered on 1/3/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/05/2020. (Admin.)
01/06/2020	<u>304</u> Order granting <u>299</u> joint motion to extend time to object to the motion of PensionDanmark's motion for relief from the automatic stay (Re: related document(s) <u>299</u> Motion to extend time to (RE: related document(s) <u>273</u> Motion for leave)) Entered on 1/6/2020. (Okafor, M.)
01/06/2020	<u>305</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u> , (Annable, Zachery)
01/06/2020	<u>306</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019.



	(Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u> , (Annable, Zachery)
01/06/2020	<u>307</u> Trustee's Objection to <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> (RE: related document(s) <u>280</u> Motion for protective order) (Lambert, Lisa)
01/06/2020	<u>308</u> Motion to appear pro hac vice for Asif Attarwala. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	<u>309</u> Motion to appear pro hac vice for Kimberly A. Posin. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	<u>310</u> Motion to appear pro hac vice for Andrew Clubok. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	<u>311</u> Motion to appear pro hac vice for Kuan Huang. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>308</u> ). (U.S. Treasury)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>309</u> ). (U.S. Treasury)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>310</u> ). (U.S. Treasury)
01/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27322441, amount \$ 100.00 (re: Doc# <u>311</u> ). (U.S. Treasury)
01/06/2020	<u>312</u> Response opposed to (related document(s): <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Jefferies LLC. (Attachments: # <u>1</u> Exhibit A) (Doherty, Casey)
01/06/2020	<u>313</u> Trustee's Objection to <i>Motion to Approve Joint Agreement</i> (RE: related document(s) <u>281</u> Motion to compromise controversy) (Lambert, Lisa)
01/06/2020	<u>314</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/06/2020	<u>315</u> Certificate of service re: <i>1) Notice of Hearing on Debtors Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code for Authority to Employ Mercer (US) Inc. as Compensation Consultant; to held on January 9, 2020 at 9:30 a.m. (CT); and 2) Notice of Hearing on Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief; to be held on January 9, 2020 at 9:30 a.m. (CT)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>284</u> Notice of hearing filed by

	<p>Debtor Highland Capital Management, L.P. (RE: related document(s)<u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u>, (Attachments: # 1 Exhibit) filed by Debtor Highland Capital Management, L.P., <u>285</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u>, (Attachments: # 1 Exhibit) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/06/2020	<p><u>316</u> Certificate of service re: <i>1) Second Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from November 1, 2019 Through November 30, 2019; 2) Notice of Hearing re: Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course; to be Held on January 9, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1/2019 to 11/30/2019, Fee: \$798,767.50, Expenses: \$26,317.71. Filed by Debtor Highland Capital Management, L.P. Objections due by 1/21/2020. filed by Debtor Highland Capital Management, L.P., <u>287</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/07/2020	<p><u>317</u> Order granting motion to appear pro hac vice adding Asif Attarwala for UBS AG London Branch and UBS Securities LLC (related document # <u>308</u>) Entered on 1/7/2020. (Okafor, M.)</p>
01/07/2020	<p><u>318</u> Order granting motion to appear pro hac vice adding Kimberly A. Posin for UBS AG London Branch and UBS Securities LLC (related document # <u>309</u>) Entered on 1/7/2020. (Okafor, M.)</p>
01/07/2020	<p><u>319</u> Order granting motion to appear pro hac vice adding Andrew Clubok for UBS AG London Branch and UBS Securities LLC (related document <u>310</u>) Entered on 1/7/2020. (Okafor, M.) MODIFIED text on 1/7/2020 (Okafor, M.).</p>
01/07/2020	<p><u>320</u> Order granting motion to appear pro hac vice adding Kuan Huang for UBS AG London Branch and UBS Securities LLC (related document # <u>311</u>) Entered on 1/7/2020. (Okafor, M.)</p>
01/07/2020	<p><u>321</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. ). (Annable, Zachery)</p>

01/07/2020	<u>322</u> Certificate of service re: Certificate of Service filed by Interested Party Jefferies LLC (RE: related document(s) <u>312</u> Response). (Doherty, Casey)
01/07/2020	<u>323</u> Notice of Appearance and Request for Notice ( <i>Amended</i> ) by Joseph E. Bain filed by Creditor Issuer Group. (Bain, Joseph)
01/07/2020	<u>324</u> ***WITHDRAWN per docket # <u>467</u> ** Objection to (related document(s): <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P.) <i>Limited Objection to Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> filed by Creditor Issuer Group. (Bain, Joseph) Modified on 2/24/2020 (Ecker, C.).
01/08/2020	<u>325</u> Motion to appear pro hac vice for James T. Bentley. Fee Amount \$100 Filed by Creditor Issuer Group (Anderson, Amy)
01/08/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27331269, amount \$ 100.00 (re: Doc# <u>325</u> ). (U.S. Treasury)
01/08/2020	<u>326</u> Notice of Compliance with Local Bankruptcy Rule 2090-4 filed by Creditor Issuer Group. (Anderson, Amy)
01/08/2020	<u>327</u> Declaration re: ( <i>Declaration of Bradley D. Sharp in Support of the Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. ). (Annable, Zachery)
01/08/2020	<u>328</u> Agreed Notice of hearingwith PensionDanmark and Highland Capital Management, L.P. filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>218</u> Motion for relief from stay MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT Fee amount \$181, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab Objections due by 12/23/2019. (Attachments: # 1 Declaration # 2 Proposed Order)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>218</u> , (Hoffman, Juliana)
01/08/2020	<u>329</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Hayward, Melissa) Modified to match docket text to PDF on 1/9/2020 (Ecker, C.).
01/08/2020	<u>330</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana) Modified text to match PDF on 1/9/2020 (Ecker, C.).
01/08/2020	<u>331</u> Certificate of service re: <i>Order Regarding Request for Expedited Hearing; to be Held on January 9, 2020 at 9:30 a.m. (Prevailing Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>291</u> Order granting motion for expedited hearing (Related Doc <u>283</u> )(document set for hearing: <u>281</u> Motion to compromise controversy) Hearing to be held on 1/9/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>281</u> , Entered on 12/31/2019.). (Kass, Albert)
01/08/2020	<u>332</u> Certificate of service re: <i>1) Amended Notice of Hearing on Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code for Authority to Employ Mercer (US) Inc. as Compensation Consultant; to be Held on January 21, 2020 at 9:30 a.m.</i>

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	<p>(Central Time); 2) Amended Notice of Hearing on Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief; to be Held on January 21, 2020 at 9:30 a.m. (Central Time) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>305</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>180</u>, filed by Debtor Highland Capital Management, L.P., <u>306</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>177</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/09/2020	<u>333</u> Order granting motion to appear pro hac vice adding James T. Bentley for Issuer Group (related document # <u>325</u> ) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>334</u> Order granting application to employ Sidley Austin LLP for Official Committee of Unsecured Creditors as Attorney (related document # <u>206</u> ) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>335</u> Court admitted exhibits date of hearing 01/09/2020. DEBTOR EXHIBIT 1 ADMITTED. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)) (Jeng, Hawaii)
01/09/2020	<u>336</u> Order granting application to employ FTI Consulting, Inc. as Financial Advisor to The Official Committee of Unsecured Creditors (related document # <u>205</u> ) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	<u>337</u> Order granting application to employ Young Conway Stargatt & Taylor, LLP for Official Committee of Unsecured Creditors as Attorney (Co-Counsel) (related document <u>226</u> ) Entered on 1/9/2020. (Okafor, M.) Modified to correct Firm name on 1/13/2020 (Ecker, C.).
01/09/2020	<u>338</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors, Strand Advisors, Inc., and James Dondero. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. ). (Hayward, Melissa)
01/09/2020	<u>339</u> Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course ( (related document # <u>281</u> ) Entered on 1/9/2020. (Okafor, M.)
01/09/2020	

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	<u>340</u> Application to employ Hayward & Associates PLLC as Attorney ( <i>Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward &amp; Associates PLLC as Local Counsel</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Melissa S. Hayward # <u>2</u> Proposed Order) (Annable, Zachery)
01/09/2020	<u>341</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>317</u> Order granting motion to appear pro hac vice adding Asif Attarwala for UBS AG London Branch and UBS Securities LLC (related document <u>308</u> ) Entered on 1/7/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/09/2020. (Admin.)
01/09/2020	Hearing held on 1/9/2020. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, I. Kharasch, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid and D. Tumi for Unsecured Creditors Committee; A. Chiarello and R. Patel for Asic; L. Lambert for UST; J. Bentley and J. Bain (both telephonically) for CLO and CDO Issuer Group; T. Mascherin and M. Hankin (telephonically) for Redeemer Committee; P. Maxcy (telephonically) for Jeffries. Evidentiary hearing. Motion granted. Counsel to upload appropriate form of order.) (Edmond, Michael) (Entered: 01/10/2020)
01/10/2020	<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document # <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)
01/10/2020	<u>343</u> Application for compensation <i>First Monthly Application for Compensation and for Reimbursement of Expenses of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 11/30/2019, Fee: \$795,054.96, Expenses: \$10,247.88. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/31/2020. (Hoffman, Juliana)
01/10/2020	<u>344</u> Certificate of service re: <i>Documents Served on January 8, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>327</u> Declaration re: ( <i>Declaration of Bradley D. Sharp in Support of the Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. ). filed by Debtor Highland Capital Management, L.P., <u>328</u> Agreed Notice of hearing with <i>PensionDanmark and Highland Capital Management, L.P.</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>218</u> Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab Objections due by 12/23/2019. (Attachments: # 1 Declaration # 2 Proposed Order)). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>218</u> , filed by Creditor Committee Official Committee of Unsecured Creditors, <u>329</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) (Hayward, Melissa) Modified to match docket text to PDF on 1/9/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>330</u> Response unopposed to (related document(s): <u>313</u> Objection) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana) Modified text to match PDF on 1/9/2020 (Ecker, C.). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
01/10/2020	<u>345</u> Certificate of service re: <i>Documents Served on January 9, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>334</u> Order granting application to employ Sidley Austin LLP for Official Committee of Unsecured Creditors as Attorney



	(related document <u>206</u> ) Entered on 1/9/2020. (Okafor, M.), <u>336</u> Order granting application to employ FTI Consulting, Inc. as Financial Advisor to The Official Committee of Unsecured Creditors (related document <u>205</u> ) Entered on 1/9/2020. (Okafor, M.), <u>337</u> Order granting application to employ Conway Stargatt & Taylor, LLP for Official Committee of Unsecured Creditors as Attorney (Co-Counsel) (related document <u>226</u> ) Entered on 1/9/2020. (Okafor, M.), <u>338</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors, Strand Advisors, Inc., and James Dondero. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. ). filed by Debtor Highland Capital Management, L.P., <u>340</u> Application to employ Hayward & Associates PLLC as Attorney ( <i>Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward &amp; Associates PLLC as Local Counsel</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Melissa S. Hayward # 2 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/10/2020	<u>346</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>319</u> Order granting motion to appear pro hac vice adding Andrew Clubok for UBS AG London Branch and UBS Securities LLC (related document <u>310</u> ) Entered on 1/7/2020. (Okafor, M.) MODIFIED text on 1/7/2020 (Okafor, M.)) No. of Notices: 1. Notice Date 01/10/2020. (Admin.)
01/10/2020	<u>347</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>320</u> Order granting motion to appear pro hac vice adding Kuan Huang for UBS AG London Branch and UBS Securities LLC (related document <u>311</u> ) Entered on 1/7/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/10/2020. (Admin.)
01/11/2020	<u>348</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>333</u> Order granting motion to appear pro hac vice adding James T. Bentley for Issuer Group (related document <u>325</u> ) Entered on 1/9/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/11/2020. (Admin.)
01/12/2020	<u>349</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/12/2020. (Admin.)
01/13/2020	<u>350</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/13/2020	<u>351</u> Motion to extend time to (Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) Filed by Debtor Highland Capital Management, L.P. Objections due by 2/6/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
01/13/2020	<u>352</u> DOCKET IN ERROR: Request for transcript regarding a hearing held on 1/9/2020. The requested turn-around time is daily. (Edmond, Michael) Modified on 1/21/2020 REQUEST WAS CANCELLED THE SAME DATE AS REQUESTED OF 1/13/2020. (Edmond, Michael).
01/13/2020	

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	<u>353</u> Objection to (related document(s): <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> ) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Patel, Rakhee)
01/14/2020	<u>354</u> Notice ( <i>Notice of Final Term Sheet</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). (Attachments: # <u>1</u> Exhibit A—Final Term Sheet) (Annable, Zachery)
01/14/2020	<u>355</u> Certificate of service re: <i>Summary and First Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from October 29, 2019 to and Including November 30, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>343</u> Application for compensation <i>First Monthly Application for Compensation and for Reimbursement of Expenses of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 11/30/2019, Fee: \$795,054.96, Expenses: \$10,247.88. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 1/31/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
01/14/2020	<u>356</u> Certificate of service re: <i>Debtor's Motion for Entry of an Order Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>351</u> Motion to extend time to (Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) Filed by Debtor Highland Capital Management, L.P. Objections due by 2/6/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/14/2020	<u>357</u> Witness and Exhibit List <i>in Connection with Motion to Appoint a Chapter 11 Trustee</i> filed by U.S. Trustee United States Trustee (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee). (Lambert, Lisa)
01/14/2020	<u>358</u> Witness and Exhibit List <i>in connection with Motion to Seal and Joint Motion for an Agreed Protective Order</i> filed by U.S. Trustee United States Trustee (RE: related document(s) <u>10</u> Motion to file document under seal., <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> ). (Lambert, Lisa)
01/15/2020	<u>359</u> Agreed Motion to continue hearing on (related documents <u>218</u> Motion for relief from stay) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
01/15/2020	<u>360</u> <i>Withdrawal of Precautionary Motion of the Debtor for Order Approving Protocols for the Debtor to Implement Certain Transactions in the Ordinary Course of Business</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>76</u> Motion by Highland Capital Management, L.P.). (Hayward, Melissa)
01/15/2020	<u>361</u> Order granting motion to continue hearing on (related document # <u>359</u> ) (related documents Motion for relief from stay <i>MOTION OF PENSIONDANMARK PENSJONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT</i> Fee amount \$181.). It is hereby ORDERED that a hearing on the Stay Relief Motion shall be continued to a later date provided by the Court and mutually acceptable to the Parties. Entered on 1/15/2020. (Okafor, M.)
01/15/2020	

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	<p><u>362</u> Response opposed to (related document(s): <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/15/2020	<p><u>363</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to maintain bank accounts.), <u>271</u> Trustee's Motion to appoint trustee Filed by U.S. Trustee United States Trustee, <u>280</u> Motion for protective order. Joint Motion for Entry of an Order Approving the Agreed Protective Order Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>7</u> and for <u>68</u> and for <u>177</u> and for <u>259</u> and for <u>280</u> and for <u>271</u> and for <u>180</u> and for <u>69</u>, (Annable, Zachery)</p>
01/15/2020	<p><u>364</u> Objection to (related document(s): <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>
01/16/2020	<p><u>365</u> Certificate of service re: Objection to First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel for the Period From October 16, 2019 Through November 30, 2019 filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related</p>

	document(s) <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> ). (Chiarello, Annmarie)
01/16/2020	<u>366</u> Amended Witness and Exhibit List <i>in Connection with Motion to Appoint a Chapter 11 Trustee</i> filed by U.S. Trustee United States Trustee (RE: related document(s) <u>357</u> List (witness/exhibit/generic)). (Lambert, Lisa)
01/16/2020	<u>367</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel, <u>69</u> Application to employ Lynn Pinker Cox & Hurst LLP as Special Counsel). (Chiarello, Annmarie)
01/16/2020	<u>368</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/17/2020	<u>369</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from October 16, 2019, Through November 30, 2019</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Staffing Report) (Annable, Zachery)
01/17/2020	<u>370</u> Joint Motion to continue hearing on (related documents <u>68</u> Application to employ, <u>69</u> Application to employ)( <i>Joint Motion for Continuance of Hearing on (i) Debtor's Application for an Order Authorizing the Employment of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date, and (ii) Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
01/17/2020	<u>371</u> Order granting joint motion to continue hearing on (related document # <u>370</u> ) (related documents Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel, Application to employ Lynn Pinker Cox & Hurst LLP as Special Counsel). ORDERED that the hearing on the Applications currently scheduled for January 21, 2020 at 9:30 a.m., will be continued to a new hearing date to be determined by the Parties; and it is further Entered on 1/17/2020. (Okafor, M.)
01/17/2020	<u>372</u> Witness and Exhibit List ( <i>Debtor's Witness and Exhibit List in Connection with Its Opposition to Motion to Appoint a Chapter 11 Trustee</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>362</u> Response). (Annable, Zachery)
01/19/2020	<u>373</u> Amended Notice ( <i>First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)
01/20/2020	<u>374</u> Amended Notice ( <i>Second Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P., <u>373</u> Amended Notice ( <i>First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ))



	filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)
01/21/2020	<u>375</u> Certificate of service re: ( <i>Supplemental</i> ) Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m. Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Evidentiary hearing. Motion denied. Debtors counsel should upload a form of order consistent with the courts ruling.) (Edmond, Michael)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted on a final basis. Debtors counsel should upload order.) (Edmond, Michael)
01/21/2020	<u>376</u> Certificate of service re: <i>Notice of Final Term Sheet</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>354</u> Notice ( <i>Notice of Final Term Sheet</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)). (Attachments: # 1 Exhibit A—Final Term Sheet) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion, as narrowed, granted. Debtors counsel should upload order.) (Edmond, Michael)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital



	<p>Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted. Debtors counsel should upload order.) (Edmond, Michael)</p>
01/21/2020	<p><u>377</u> Certificate of service re: <i>1) Objection of the Debtor to United States Trustee's Motion for an Order Directing the Appointment of a Chapter 11 Trustee; and 2) Notice of Hearing; to be Held on January 21, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>362</u> Response opposed to (related document(s): <u>271</u> Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>363</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>7</u> Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: <u>1</u> Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>177</u> Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>180</u> Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>259</u> Support/supplemental document to the Motion of Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account, (C) Limited Waiver</p>

	filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>7</u> Motion to maintain bank accounts.), <u>271</u> Trustee's Motion to appoint trustee Filed by U.S. Trustee United States Trustee, <u>280</u> Motion for protective order <i>Joint Motion for Entry of an Order Approving the Agreed Protective Order</i> Filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors). Hearing to be held on 1/21/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>7</u> and for <u>68</u> and for <u>177</u> and for <u>259</u> and for <u>280</u> and for <u>271</u> and for <u>180</u> and for <u>69</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>280</u> Motion for protective order Joint Motion for Entry of an Order Approving the Agreed Protective Order filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted, with certain amendments as discussed on the record. Debtors counsel should upload order.) (Edmond, Michael)
01/21/2020	Hearing held on 1/21/2020. (RE: related document(s) <u>127</u> Motion to File Under Seal of the Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtors (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/19/2019. (Attachments: # 1 Notice # 2 Proposed Form of Order) [ORIGINALLY FILED AS DOCUMENT #123 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)(Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion denied for mootness. UCCs counsel should upload order.) (Edmond, Michael)
01/21/2020	<u>378</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses on behalf of the Unsecured Creditors Committee</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 11/30/2019, Fee: \$322,274.88, Expenses: \$4,687.35. Filed by Attorney Juliana Hoffman Objections due by 2/11/2020. (Hoffman, Juliana)
01/21/2020	<u>383</u> Court admitted exhibits date of hearing January 21, 2020 (RE: related document(s) <u>271</u> Trustee's Motion to appoint trustee filed by Lisa Lambert representing the U.S. Trustee) (Court Admitted U.S. Trustee's Exhibits #4, #5, #7, #8, #9, #10 and Took Judicial Notice of Exhibit #11) (Edmond, Michael) (Entered: 01/22/2020)
01/22/2020	<u>379</u> Final Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account and Maxim Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P (related document # <u>7</u> ) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>380</u> Order Authorizing Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P. (related document # <u>177</u> ) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>381</u> Order Granting Application to Employ Mercer (US) Inc. as Compensation Consultant to the debtor (related document # <u>180</u> ) Entered on 1/22/2020. (Okafor, M.)

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01/22/2020	<u>382</u> Agreed Order Granting Motion for Protective Order (related document # <u>280</u> ) Entered on 1/22/2020. (Okafor, M.)
01/22/2020	<u>384</u> Declaration re: <i>Notice / Declaration of Conor P. Tully in Support of the Retention of FTI Consulting, Inc.</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>205</u> Application to employ FTI CONSULTING, INC. as Financial Advisor <i>APPLICATION PURSUANT TO FED. R. BANKR. P. 2014(a) FOR ORDER UNDER SECTION 1103 OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVIS</i> ). (Hoffman, Juliana)
01/22/2020	<u>385</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland C). (Annable, Zachery)
01/22/2020	<u>386</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1). (Annable, Zachery)
01/22/2020	<u>387</u> Request for transcript regarding a hearing held on 1/21/2020. The requested turn-around time is hourly. (Edmond, Michael) (Entered: 01/23/2020)
01/23/2020	<u>388</u> Certificate of service re: First Supplemental Declaration of Conor P. Tully In Support of the Application Authorizing the Employment and Retention of FTI Consulting, Inc., as Financial Advisor to the Official Committee of Unsecured Creditors Nunc Pro Tunc to November 6, 2019 filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>384</u> Declaration). (Hoffman, Juliana)
01/23/2020	<u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020. (Hoffman, Juliana)
01/23/2020	<u>390</u> Supplemental Notice of the <i>Young Conaway Stargatt &amp; Taylor, LLP Final Fee Application</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020.). (Hoffman, Juliana)
01/23/2020	<u>391</u> Certificate of service re: Final Fee Application <i>on behalf of Young Conaway Stargatt &amp; Taylor, LLP</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Perio). (Hoffman, Juliana)
01/24/2020	<u>392</u> Application for compensation <i>Third Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2019 through December 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 12/1/2019 to 12/31/2019, Fee: \$589,730.35, Expenses: \$26,226.80. Filed by Debtor Highland Capital Management, L.P. Objections due by 2/14/2020. (Pomerantz, Jeffrey)

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01/24/2020

393 Transcript regarding Hearing Held 01/21/2020 (140 pgs.) RE: Motions. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 04/23/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) Hearing held on 1/21/2020. (RE: related document(s)271 Trustee's Motion to appoint trustee filed by U.S. Trustee United States Trustee) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Evidentiary hearing. Motion denied. Debtors counsel should upload a form of order consistent with the courts ruling.), Hearing held on 1/21/2020. (RE: related document(s)7 Motion to Maintain Bank Accounts /Motion of the Debtor for Interim and Final Orders Authorizing (A) Continuance of Existing Cash Management System and Brokerage Relationships, (B) Continued Use of the Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P. (Attachments: 1 Exhibit A – Interim Order) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #5 ON 10/16/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted on a final basis. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)177 Motion to Authorize Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Exhibit A – Proposed Order # 2 Notice) [ORIGINALLY FILED AS DOCUMENT #170 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion, as narrowed, granted. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)180 Application/Motion to Employ/Retain Mercer (US) Inc. as Compensation Consultant Filed by Highland Capital Management, L.P.. Hearing scheduled for 12/17/2019 at 11:00 AM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 12/10/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – Declaration of John Dempsey in Support # 4 Exhibit C – Highland Key Employee Incentives # 5 Certificate of Service and Service List)(O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #173 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion granted. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)280 Motion for protective order Joint Motion for Entry of an Order Approving the Agreed Protective Order filed by Debtor Highland Capital Management, L.P., Creditor Committee Official Committee of Unsecured Creditors) (Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers.

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	<p>Nonevidentiary hearing. Motion granted, with certain amendments as discussed on the record. Debtors counsel should upload order.), Hearing held on 1/21/2020. (RE: related document(s)<u>127</u> Motion to File Under Seal of the Omnibus Objection of the Official Committee of Unsecured Creditors to the Debtors (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for Ordinary Course Transactions Filed by Official Committee of Unsecured Creditors. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/19/2019. (Attachments: # 1 Notice # 2 Proposed Form of Order) [ORIGINALLY FILED AS DOCUMENT #123 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)(Appearances: J. Pomerantz, J. Morris, M. Litvak, M. Hayward, and Z. Annable for Debtor; D. Twomey, P. Reid, and J. Hoffman for Official Unsecured Creditors Committee; R. Patel for Acis; L. Lambert for UST; M. Platt and M. Hankin (telephonically) for Crusader Fund Redeemer Committee; K. Posin and A. Attarwala for UBS; A. Anderson and J. Bentley (telephonically) for CLO Issuers. Nonevidentiary hearing. Motion denied for mootness. UCCs counsel should upload order.)). Transcript to be made available to the public on 04/23/2020. (Rehling, Kathy)</p>
01/24/2020	<p><u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 2/14/2020. (O'Neil, Holland)</p>
01/24/2020	<p><u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)</p>
01/24/2020	<p><u>396</u> Motion for expedited hearing(related documents <u>395</u> Motion to extend/shorten time) (<i>Motion for (i) Expedited Hearing on Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. 1121(d) and Local Rule 3016–1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan, or Alternatively, (ii) Entry of a Bridge Order Extending the Exclusivity Period for the Filing of a Chapter 11 Plan Through February 19, 2020</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
01/24/2020	<p><u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Email Correspondence) (Annable, Zachery)</p>
01/24/2020	<p><u>398</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>381</u> Order Granting Application to Employ Mercer (US) Inc. as Compensation Consultant to the debtor (related document <u>180</u>) Entered on 1/22/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 01/24/2020. (Admin.)</p>
01/24/2020	<p><u>399</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>379</u> Final Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account and Maxim Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P (related document <u>7</u>) Entered on 1/22/2020. (Okafor, M.)) No. of Notices: 44. Notice Date 01/24/2020. (Admin.)</p>
01/27/2020	<p><u>400</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by</p>



	4/8/2020. Attorney(s) certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
01/27/2020	<u>401</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>368</u> <i>Notice (Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/27/2020	<u>402</u> Certificate of service re: <i>Documents Served on January 17, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>369</u> <i>Notice (Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from October 16, 2019, Through November 30, 2019)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> <i>Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i> (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Staffing Report) filed by Debtor Highland Capital Management, L.P., <u>370</u> <i>Joint Motion to continue hearing on</i> (related documents <u>68</u> <i>Application to employ, 69 Application to employ</i> )( <i>Joint Motion for Continuance of Hearing on (i) Debtor's Application for an Order Authorizing the Employment of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date, and (ii) Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>371</u> <i>Order granting joint motion to continue hearing on</i> (related document <u>370</u> ) (related documents <i>Application to employ Foley Gardere, Foley &amp; Lardner LLP as Special Counsel, Application to employ Lynn Pinker Cox &amp; Hurst LLP as Special Counsel</i> ). ORDERED that the hearing on the Applications currently scheduled for January 21, 2020 at 9:30 a.m., will be continued to a new hearing date to be determined by the Parties; and it is further Entered on 1/17/2020. (Okafor, M.), <u>372</u> <i>Witness and Exhibit List (Debtor's Witness and Exhibit List in Connection with Its Opposition to Motion to Appoint a Chapter 11 Trustee)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>362</u> <i>Response</i> ). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/27/2020	<u>403</u> Certificate of service re: <i>Documents Served on or before January 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>373</u> <i>Amended Notice (First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> <i>Notice (Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P..). filed by Debtor Highland Capital Management, L.P., <u>374</u> <i>Amended Notice (Second Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> <i>Notice (Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P., <u>373</u> <i>Amended Notice (First Amended Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>368</u> <i>Notice (Notice of Agenda of Matters Scheduled for Hearing on January 21, 2020 at 9:30 a.m. (Central Time))</i> filed by Debtor Highland Capital Management, L.P..). filed by Debtor Highland Capital Management, L.P., <u>378</u> <i>Application for compensation First Monthly Application for Compensation and Reimbursement of Expenses on behalf of the Unsecured Creditors Committee for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 11/30/2019, Fee: \$322,274.88, Expenses: \$4,687.35.</i> Filed by Attorney Juliana Hoffman Objections due by 2/11/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
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	<p><u>404</u> Certificate of service re: <i>Documents Served on January 22, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>379</u> Final Order Authorizing (A) Continuance of Existing Cash Management System, (B) Continued Use of the Prime Account and Maxim Prime Account, (C) Limited Waiver of Section 345(b) Deposit and Investment Requirements, and (D) Granting Related Relief Filed By Highland Capital Management, L.P (related document <u>7</u>) Entered on 1/22/2020. (Okafor, M.), <u>380</u> Order Authorizing Debtor to Pay and Honor Ordinary Course Obligations Under Employee Bonus Plans and Granting Related Relief Filed by Highland Capital Management, L.P. (related document <u>177</u>) Entered on 1/22/2020. (Okafor, M.), <u>381</u> Order Granting Application to Employ Mercer (US) Inc. as Compensation Consultant to the debtor (related document <u>180</u>) Entered on 1/22/2020. (Okafor, M.), <u>382</u> Agreed Order Granting Motion for Protective Order (related document <u>280</u>) Entered on 1/22/2020. (Okafor, M.), <u>385</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>235</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From October 16, 2019 Through October 31, 2019</i> for Highland C). filed by Debtor Highland Capital Management, L.P., <u>386</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>286</u> Application for compensation <i>Second Monthly Application for Compensation and for Reimbursement of Expenses for the Period from November 1, 2019 through November 30, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 11/1). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/27/2020	<p><u>405</u> Debtor-in-possession monthly operating report for filing period 10/16/2019 to 10/31/2019 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/27/2020	<p><u>406</u> Notice (<i>Notice of Filing of Third Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1—Updated OCP List # <u>2</u> Exhibit 2—Blackline OCP List) (Annable, Zachery)</p>
01/27/2020	<p><u>407</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional—Shawn Raver</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). (Annable, Zachery)</p>
01/27/2020	<p><u>408</u> Notice of hearing(<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Email Correspondence)). Status Conference to be held on 2/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)</p>
01/28/2020	<p><u>409</u> Order Denying as Moot the Motion of the Official Committee of Unsecured Creditors for an Order Authorizing Filing Under Seal of the Omnibus Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (RE: related document(s) <u>128</u> Document and <u>127</u> Motion ). Entered on 1/28/2020 (Okafor, M.). Modified linkage on 2/11/2020 (Okafor, M.).</p>
01/28/2020	<p><u>410</u> Bridge Order extending the exclusivity periods for filing Chapter 11 Plan and granting motion for expedited hearing (Related Doc# <u>396</u>)(document set for hearing: <u>395</u> Motion to extend/shorten time) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u>, Entered on 1/28/2020. (Okafor, M.)</p>
01/28/2020	<p><u>411</u> Notice of Appearance and Request for Notice by Shawn M. Christianson Filed by Creditor Oracle America, Inc.. (Christianson, Shawn)</p>

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01/28/2020	<p><u>412</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u>, (Annable, Zachery)</p>
01/29/2020	<p><u>413</u> Certificate of service re: 1) <i>First and Final Application of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel for the Official Committee of Unsecured Creditors for Allowance of Compensation and Reimbursement of Expenses Incurred for the First and Final Period from November 8, 2019 Through and Including January 13, 2020</i>; 2) <i>Notice of First and Final Application of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel for the Official Committee of Unsecured Creditors for Allowance of Compensation and Reimbursement of Expenses Incurred for the First and Final Period from November 8, 2019 Through and Including January 13, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>390</u> Supplemental Notice of the <i>Young Conaway Stargatt &amp; Taylor, LLP Final Fee Application</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/8/2019 to 1/13/2020, Fee: \$272,300.00, Expenses: \$8,855.56. Filed by Attorney Juliana Hoffman Objections due by 2/13/2020.). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
01/29/2020	<p><u>414</u> Certificate of service re: <i>Documents Served on January 24, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>392</u> Application for compensation <i>Third Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2019 through December 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 12/1/2019 to 12/31/2019, Fee: \$589,730.35, Expenses: \$26,226.80. Filed by Debtor Highland Capital Management, L.P. Objections due by 2/14/2020. filed by Debtor Highland Capital Management, L.P., <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 2/14/2020. (O'Neil, Holland), <u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>396</u> Motion for expedited hearing(related documents <u>395</u> Motion to extend/shorten time) (<i>Motion for (i) Expedited Hearing on Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. 1121(d) and Local Rule 3016-1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan, or Alternatively, (ii) Entry of a Bridge Order Extending the Exclusivity Period for the Filing of a Chapter 11 Plan Through February 19, 2020</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Email Correspondence) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/30/2020	<p><u>415</u> Certificate of service re: <i>Documents Served on January 27, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>406</u> Notice (<i>Notice of Filing of Third Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary</i></p>

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	<p><i>Course of Business</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit 1—Updated OCP List # 2 Exhibit 2—Blackline OCP List) filed by Debtor Highland Capital Management, L.P., <u>407</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional—Shawn Raver</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>408</u> Notice of hearing(<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>397</u> Motion to enforce(<i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i>) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Email Correspondence)). Status Conference to be held on 2/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/30/2020	<p><u>416</u> Certificate of service re: <i>Documents Served on January 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>409</u> Order Denying as Moot the Motion of the Official Committee of Unsecured Creditors for an Order Authorizing Filing Under Seal of the Omnibus Objection to the Debtor's (I) Motion for Final Order Authorizing Continuance of the Existing Cash Management System, (II) Motion to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, and (III) Precautionary Motion for Approval of Protocols for "Ordinary Course" Transactions (RE: related document(s) 128 Document). Entered on 1/28/2020 (Okafor, M.), <u>410</u> Bridge Order extending the exclusivity periods for filing Chapter 11 Plan and granting motion for expedited hearing (Related Doc<u>396</u>)(document set for hearing: <u>395</u> Motion to extend/shorten time) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u>, Entered on 1/28/2020. (Okafor, M.), <u>412</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>395</u> Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>395</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/31/2020	<p><u>417</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2019 through December 31, 2019</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)</p>
01/31/2020	<p><u>418</u> Debtor–in–possession monthly operating report for filing period December 1, 2019 to December 31, 2019 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/31/2020	<p><u>419</u> Motion to extend time to (Agreed Motion to Extend by One Hundred Twenty Days the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)</p>
01/31/2020	<p><u>420</u> Application for compensation <i>Second Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2019 to 12/31/2019, Fee: \$702,665.28, Expenses: \$30,406.08. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 2/21/2020. (Attachments: # <u>1</u> Exhibit A Fee Statement # <u>2</u> Exhibit B Expense Detail) (Hoffman, Juliana)</p>
01/31/2020	<p><u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit</p>

	A—Form of Bar Date Notice # <u>2</u> Exhibit B—Form of Publication Notice # <u>3</u> Exhibit C—Proposed Order) (Annable, Zachery)
01/31/2020	<u>422</u> Motion for expedited hearing(related documents <u>421</u> Motion for leave) ( <i>Motion for Expedited Hearing on Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
02/02/2020	<u>423</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>343</u> Application for compensation <i>First Monthly Application for Compensation and for Reimbursement of Expenses of Sidley Austin LLP for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 11/30/2019, Fee: \$7).</i> (Hoffman, Juliana)
02/03/2020	<u>424</u> Certificate of service re: <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/04/2020	<u>425</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>340</u> Application to employ Hayward & Associates PLLC as Attorney ( <i>Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward &amp; Associate</i> ). (Hayward, Melissa)
02/04/2020	<u>426</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>421</u> Motion for leave ( <i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Form of Bar Date Notice # 2 Exhibit B—Form of Publication Notice # 3 Exhibit C—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u> , (Annable, Zachery)
02/05/2020	<u>427</u> Order granting motion for expedited hearing (Related Doc# <u>422</u> )(document set for hearing: <u>421</u> Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u> , Entered on 2/5/2020. (Okafor, M.)
02/05/2020	<u>428</u> Order denying motion to appoint trustee. (related document # <u>271</u> ) Entered on 2/5/2020. (Okafor, M.)
02/06/2020	<u>429</u> Order granting <u>419</u> Motion to Extend Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by One Hundred and Twenty Days Entered on 2/6/2020. (Okafor, M.)
02/06/2020	<u>430</u> Certificate of service re: <i>Documents Served on January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>417</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2019 through December 31, 2019</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>419</u> Motion to extend time to (Agreed Motion to Extend by One Hundred Twenty Days the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease) Filed by Debtor Highland Capital Management, L.P.



	<p>(Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>420</u> Application for compensation <i>Second Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2019 to 12/31/2019, Fee: \$702,665.28, Expenses: \$30,406.08. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 2/21/2020. (Attachments: # 1 Exhibit A Fee Statement # 2 Exhibit B Expense Detail) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Form of Bar Date Notice # 2 Exhibit B—Form of Publication Notice # 3 Exhibit C—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>422</u> Motion for expedited hearing(related documents <u>421</u> Motion for leave) (<i>Motion for Expedited Hearing on Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/06/2020	<p><u>431</u> Certificate of service re: <i>Notice of Hearing on Debtor's Motion for an Order (I) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (II) Approving the Form and Manner of Notice Thereof</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>426</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>421</u> Motion for leave (<i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Form of Bar Date Notice # 2 Exhibit B—Form of Publication Notice # 3 Exhibit C—Proposed Order)). Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/06/2020	<p><u>432</u> Certificate of service re: <i>(Supplemental) Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)</p>
02/07/2020	<p><u>433</u> Clerk's correspondence requesting an order or a notice of hearing from attorney for debtor. (RE: related document(s)<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)) Responses due by 2/14/2020. (Ecker, C.)</p>
02/10/2020	<p><u>434</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>351</u> Motion to extend time to (Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure)). (Hayward, Melissa)</p>
02/10/2020	<p><u>435</u> Order granting application to employ Hayward &amp; Associates PLLC for Highland Capital Management, L.P. as Local Counsel (related document # <u>340</u>) Entered on 2/10/2020. (Okafor, M.)</p>
02/10/2020	<p><u>436</u> Certificate of service re: <i>(Supplemental) Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by</p>

	4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/10/2020	<u>437</u> Notice ( <i>Notice of Withdrawal of Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox & Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
02/10/2020	<u>438</u> **WITHDRAWN by document # <u>443</u> ** Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270</u> , (Annable, Zachery) Modified on 2/13/2020 (Ecker, C.).
02/11/2020	<u>439</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>67</u> Motion by Highland Capital Management, L.P.). (Annable, Zachery)
02/12/2020	<u>440</u> Certificate of service re: <i>1) Order Granting Motion for Expedited Hearing on Debtor's Motion for an Order (I) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (II) Approving the Form and Manner of Notice Thereof; to be Held on February 19, 2020 at 9:30 a.m. (Central Time); 2) Order Denying United States Trustee's Motion for an Order Directing the Appointment of a Chapter 11 Trustee</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>427</u> Order granting motion for expedited hearing (Related Doc <u>422</u> )(document set for hearing: <u>421</u> Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof) Hearing to be held on 2/19/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>421</u> , Entered on 2/5/2020. (Okafor, M.), <u>428</u> Order denying motion to appoint trustee. (related document <u>271</u> ) Entered on 2/5/2020. (Okafor, M.)). (Kass, Albert)
02/12/2020	<u>441</u> Certificate of service re: <i>Order Extending Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by One Hundred and Twenty Days</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>429</u> Order granting <u>419</u> Motion to Extend Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by One Hundred and Twenty Days Entered on 2/6/2020. (Okafor, M.)). (Kass, Albert)
02/12/2020	<u>442</u> Application for compensation <i>Second Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 12/1/2019 to 12/31/2019, Fee: \$89,215.36, Expenses: \$3,955.12. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 3/4/2020. (Hoffman, Juliana)
02/12/2020	<u>443</u> Notice ( <i>Notice of Withdrawal of Notice of Hearing on the First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related

	<p>document(s)<u>438</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270</u>.) (Annable, Zachery)</p>
02/12/2020	<p><u>444</u> Certificate No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>378</u> Application for compensation <i>First Monthly Application for Compensation and Reimbursement of Expenses on behalf of the Unsecured Creditors Committee</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 11/30/2019, Fee: \$32). (Hoffman, Juliana)</p>
02/13/2020	<p><u>445</u> Certificate of service re: 1) <i>Order Authorizing and Approving Debtor's Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Hayward &amp; Associates PLLC as Local Counsel</i>; 2) <i>Notice of Withdrawal of Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i>; and 3) <i>Notice of Hearing re: First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 Through November 30, 2019; to be Held on March 11, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>435</u> Order granting application to employ Hayward &amp; Associates PLLC for Highland Capital Management, L.P. as Local Counsel (related document <u>340</u>) Entered on 2/10/2020. (Okafor, M.), <u>437</u> Notice (<i>Notice of Withdrawal of Debtor's Application for an Order Authorizing the Retention and Employment of Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel, Nunc Pro Tunc to the Petition Date</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>69</u> Application/Motion to Employ/Retain Lynn Pinker Cox &amp; Hurst LLP as Special Texas Litigation Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Hurst Declaration # 3 Exhibit B – Proposed Order # 4 2016 Statement # 5 Declaration Frank Waterhouse # 6 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #70 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). filed by Debtor Highland Capital Management, L.P., <u>438</u> <b>**WITHDRAWN</b> by document <u>443</u> <b>**</b> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270</u>, (Annable, Zachery) Modified on 2/13/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/13/2020	<p><u>446</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s)<u>68</u> Application to employ Foley Gardere, Foley &amp; Lardner LLP as Special Counsel). (Chiarello, Annmarie)</p>
02/13/2020	<p><u>447</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>395</u> Motion to extend or limit the exclusivity period). (Annable, Zachery)</p>



02/13/2020	<u>448</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>421</u> Motion for leave ( <i>Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i> )). (Annable, Zachery)
02/13/2020	<u>449</u> Certificate of service re: 1) <i>Second Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from December 1, 2019 to and Including December 31, 2019</i> ; 2) <i>Notice of Withdrawal of Notice of Hearing on the First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 Through November 30, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>442</u> Application for compensation <i>Second Monthly Application for Allowance of Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 12/1/2019 to 12/31/2019, Fee: \$89,215.36, Expenses: \$3,955.12.</i> Filed by Financial Advisor FTI Consulting, Inc. Objections due by 3/4/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, Financial Advisor FTI Consulting, Inc., <u>443</u> Notice ( <i>Notice of Withdrawal of Notice of Hearing on the First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>438</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>270</u> Application for compensation – <i>First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$176129.00, Expenses: \$7836.31. Filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP Objections due by 1/13/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland)). Hearing to be held on 3/11/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>270.</u> filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/14/2020	<u>450</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>389</u> Application for compensation <i>First and Final Application for Compensation and Reimbursement of Expenses on behalf of Young Conaway Stargatt &amp; Taylor, LLP as Co-Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Perio</i> ). (Hoffman, Juliana)
02/14/2020	<u>451</u> Motion for relief from stay Fee amount \$181, Filed by Jennifer G. Terry, Joshua Terry Objections due by 3/2/2020. (Attachments: # <u>1</u> Exhibit 1 (Arb Award) # <u>2</u> Exhibit 2 (Rule 11) # <u>3</u> Exhibit 3 (Terry Declaration)) (Shaw, Brian)
02/14/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sgi11) [motion,mrlfsty] ( 181.00). Receipt number 27457656, amount \$ 181.00 (re: Doc# <u>451</u> ). (U.S. Treasury)
02/14/2020	<u>452</u> Notice of hearing filed by Jennifer G. Terry, Joshua Terry (RE: related document(s) <u>451</u> Motion for relief from stay Fee amount \$181, Filed by Jennifer G. Terry, Joshua Terry Objections due by 3/2/2020. (Attachments: # 1 Exhibit 1 (Arb Award) # 2 Exhibit 2 (Rule 11) # 3 Exhibit 3 (Terry Declaration))). Preliminary hearing to be held on 3/11/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Shaw, Brian)
02/14/2020	<u>453</u> Objection to (related document(s): <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 20</i> ) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Patel, Rakhee)
02/14/2020	<u>454</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel). (Annable, Zachery)

02/17/2020	<u>455</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on February 19, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/18/2020	<u>456</u> Notice of Withdrawal of Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>124</u> Limited Objection to the Debtor's Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley & Lardner LLP and Lynn Pinker Cox & Hurst as Special Texas Counsel and Special Litigation Counsel, Nunc Pro Tunc to the Petition Date (related document(s) <u>69, 70</u> ) Filed by Official Committee of Unsecured Creditors (Weissgerber, Jaclyn) [ORIGINALLY FILED AS DOCUMENT #120 ON 11/12/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Hoffman, Juliana)
02/18/2020	<u>457</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>392</u> Application for compensation <i>Third Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2019 through December 31, 2019</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 12/1/). (Annable, Zachery)
02/19/2020	<u>458</u> Order granting first and final application for compensation (related document # <u>389</u> ) granting for Young Conaway Stargatt & Taylor, LLP as co-counsel for Official Committee of Unsecured Creditors, fees awarded: \$272300.00, expenses awarded: \$8855.56 Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>459</u> Order granting <u>351</u> Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>460</u> Order granting <u>395</u> Debtor's Motion to extend or limit the exclusivity period through and including June 12, 2020 Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>461</u> Order granting motion of the Debtor for Entry of an Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. Section 1505 and (II) Granting Related Relief (related document # <u>67</u> ) Entered on 2/19/2020. (Okafor, M.)
02/19/2020	<u>462</u> Court admitted exhibits date of hearing February 19, 2020 (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P., (Court Admitted Debtors/Plaintiffs Exhibits #1, #2, #3, #4, #5, #6, #7 #8, & #9; Also Admitted Defendant/Respondent Exhibits #16 & #27 only). (Edmond, Michael)
02/19/2020	<u>463</u> Request for transcript regarding a hearing held on 2/19/2020. The requested turn-around time is hourly (Jeng, Hawaii)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Evidentiary hearing. Court granted in part and denied in part. Foley is approved for representation of Highland in all Acis bankruptcy case and adversary proceeding matters; court does not approve Highland paying Foley for Foleys representation of Neutra in Neutras appeal of Acis involuntary order for relief; court will approve Foley representing Highland in its appeal of Acis confirmation order but fees for Foley in connection with this appeal will be allocated appropriately between Neutra and Highland, and Highland will not pay for Neutras allocated portion of fees. Court added that it is skeptical regarding likely benefits to Highland of the appeal of Acis confirmation order, even assuming success on



	appeal (in contrast to possible benefits to Neutra and HCLOF) since, among other things, reversal of confirmation order would not reinstate previously rejected contracts or remove the Chapter 11 trustee. Thus, the court will closely evaluate fees requested ultimately for likely benefit to Highland. Order should be submitted.(Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court heard reports that carryover issues are being resolved.) (Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>397</u> Motion to enforce( <i>Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings</i> ) (related document(s): <u>382</u> Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Discussion of prior order on sealing motion and court clarified its intent.) (Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>421</u> Motion for leave (Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof) filed by Debtor Highland Capital Management, L.P.,) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 02/25/2020)
02/19/2020	Hearing held on 2/19/2020. (RE: related document(s) <u>218</u> Motion for relief from stay MOTION OF PENSIONDANMARK PENSIONSORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court granted request to carry this matter to the 3/11/20 omnibus hearing.) (Edmond, Michael) (Entered: 02/25/2020)
02/20/2020	<u>464</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From January 1, 2020 through January 31, 2020</i> for Highland Capital Management, L.P., Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$898,094.25, Expenses: \$28,854.75. Filed by Debtor Highland Capital Management, L.P. Objections due by 3/12/2020. (Pomerantz, Jeffrey)
02/20/2020	<u>465</u> Application for compensation ( <i>First Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the</i>

	<i>Debtor for the Period from December 10, 2019 through December 31, 2019</i> for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 12/31/2019, Fee: \$18,695.00, Expenses: \$80.60. Filed by Attorney Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A December 2019 Fee Statement) (Annable, Zachery)
02/21/2020	<u>466</u> Notice ( <i>Notice of Debtor's Amended Operating Protocols</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>339</u> Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course ( (related document <u>281</u> ) Entered on 1/9/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Amended Operating Protocols # <u>2</u> Exhibit B—Redline of Amended Operating Protocols) (Annable, Zachery)
02/21/2020	<u>467</u> <i>Withdrawal of Limited Objection to Motion of the Debtor for Approval of Settlement with The Official Committee Of Unsecured Creditors regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> filed by Creditor Issuer Group (RE: related document(s) <u>324</u> Objection). (Bain, Joseph)
02/21/2020	<u>468</u> Certificate of service re: Objection to Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley & Lardner LLP as Special Texas Counsel for the Period From December 1, 2019 through December 31, 2019 filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 20</i> ). (Chiarello, Annmarie)
02/21/2020	<u>469</u> Certificate of service re: <i>Debtor's Witness and Exhibit List in Connection with its Application for an Order Authorizing the Retention and Employment of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>454</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>68</u> Application to employ Foley Gardere, Foley & Lardner LLP as Special Counsel). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/21/2020	<u>470</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on February 19, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>455</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on February 19, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/21/2020	<u>471</u> Certificate of service re: <i>1) Order Extending Period Within Which the Debtor May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure; 2) Order Granting Debtors Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(D) and Local Rule 3016-1 Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan; 3) Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. § 1505 and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>459</u> Order granting <u>351</u> Debtor's Motion for Entry of an Order Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure Entered on 2/19/2020. (Okafor, M.), <u>460</u> Order granting <u>395</u> Debtor's Motion to extend or limit the exclusivity period through and including June 12, 2020 Entered on 2/19/2020. (Okafor, M.), <u>461</u> Order granting motion of the Debtor for Entry of an Order (I) Authorizing Bradley D. Sharp to Act as Foreign Representative Pursuant to 11 U.S.C. Section 1505 and (II) Granting Related Relief (related document <u>67</u> ) Entered on 2/19/2020. (Okafor, M.)). (Kass, Albert)
02/23/2020	<u>472</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>420</u> Application for compensation <i>Second Monthly Application of Sidley Austin LLP for Allowance of Compensation and</i>

	<i>Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2019 to 12/31/2019, Fee). (Hoffman, Juliana)
02/24/2020	<u>473</u> Agreed Order granting motion for relief from stay by Creditor PensionDanmark Pensionsforsikringsaktieselskab (related document # <u>218</u> ) Entered on 2/24/2020. (Okafor, M.)
02/24/2020	<u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)
02/24/2020	<u>475</u> Motion for expedited hearing(related documents <u>474</u> Motion for authority to apply and disburse funds) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
02/24/2020	<u>476</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of Chapter 11 Bankruptcy Case and Meeting of Creditors; to be Held on January 9, 2020 at 11:00 a.m.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>229</u> Meeting of creditors 341(a) meeting to be held on 1/9/2020 at 11:00 AM at Dallas, Room 976. Proofs of Claims due by 4/8/2020. Attorney(s)certificate of service of 341 meeting chapter 11 to be filed by 01/9/2020.). (Kass, Albert)
02/25/2020	<u>477</u> Order granting motion for expedited hearing (Related Doc# <u>475</u> )(document set for hearing: <u>474</u> Motion for authority to apply and disburse funds) Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>474</u> , Entered on 2/25/2020. (Okafor, M.)
02/25/2020	<u>478</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G)). Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>474</u> , (Annable, Zachery)
02/26/2020	<u>479</u> Transcript regarding Hearing Held 02/19/2020 (188 pgs.) RE: Motions. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/26/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) Hearing held on 2/19/2020. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Evidentiary hearing. Court granted in part and denied in part. Foley is approved for representation of Highland in all Acis bankruptcy case and adversary proceeding matters; court does not approve Highland paying Foley for Foleys representation of Neutra in Neutras appeal of Acis involuntary order for relief; court will approve Foley representing Highland in its appeal of Acis confirmation order but fees for Foley in connection with this appeal will be allocated appropriately between Neutra and Highland, and Highland will not pay for Neutras allocated portion of fees. Court added that it is skeptical regarding likely benefits to Highland of the appeal of Acis confirmation order, even assuming success on appeal (in contrast to possible benefits to Neutra and HCLOF) since, among other things, reversal of confirmation order would not reinstate previously

rejected contracts or remove the Chapter 11 trustee. Thus, the court will closely evaluate fees requested ultimately for likely benefit to Highland. Order should be submitted., Hearing held on 2/19/2020. (RE: related document(s)281 Motion to compromise controversy with Official Committee of Unsecured Creditors filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court heard reports that carryover issues are being resolved.), Hearing held on 2/19/2020. (RE: related document(s)397 Motion to enforce (*Motion of the Debtor for the Entry of an Order Concerning the "Sealing Motion" and for a Conference Concerning the Substance, Scope and Intent of Certain Recent Rulings*) (related document(s): 382 Order on motion for protective order) Filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Discussion of prior order on sealing motion and court clarified its intent.), Hearing held on 2/19/2020. (RE: related document(s)421 Motion for leave (*Debtor's Motion for an Order (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof*) filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Motion granted. Counsel to upload order.), Hearing held on 2/19/2020. (RE: related document(s)218 Motion for relief from stay MOTION OF PENSIONDANMARK PENSIONSFORSIKRINGSAKTIESELSKAB FOR AN ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY TO TERMINATE INVESTMENT MANAGEMENT AGREEMENT, Filed by Creditor PensionDanmark Pensionsforsikringsaktieselskab) (Appearances: G. Demo, J. Pomeranz, J. Morris, M. Hayward, and Z. Annabel for Debtors; M. Clemente and J. Hoffman for Unsecured Creditors Committee; L. Lambert for UST; P. Lamberson, R. Patel, and A. Chiarello for Acis; M. Platt for Redeemer Committee; A. Anderson for certain issuers of CLOs; J. Bentley (telephonically) for certain CLO issuers; M. Hankin (telephonically) for Redeemer Committee. Nonevidentiary hearing. Court granted request to carry this matter to the 3/11/20 omnibus hearing.). Transcript to be made available to the public on 05/26/2020. (Rehling, Kathy)

480 Certificate of service re: 1) Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from January 1, 2020 Through January 31, 2020; 2) First Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from December 1, 2019 Through December 31, 2019 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)464 Application for compensation Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From January 1, 2020 through January 31, 2020 for Highland Capital Management, L.P., Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$898,094.25, Expenses: \$28,854.75. Filed by Debtor Highland Capital Management, L.P. Objections due by 3/12/2020. filed by Debtor Highland Capital Management, L.P., 465 Application for compensation (First Monthly Application for Compensation and Reimbursement of Expenses of Hayward & Associates PLLC as Local Counsel to the Debtor for the Period from December 10, 2019 through December 31, 2019) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 12/31/2019, Fee: \$18,695.00, Expenses: \$80.60. Filed by Attorney Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A December 2019 Fee Statement)). (Kass, Albert)

02/26/2020

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02/26/2020	<u>481</u> Certificate of service re: <i>Notice of Debtor's Amended Operating Protocols</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>466</u> <i>Notice (Notice of Debtor's Amended Operating Protocols)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>339</u> Order Approve Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course ( (related document <u>281</u> ) Entered on 1/9/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Amended Operating Protocols # 2 Exhibit B—Redline of Amended Operating Protocols) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/26/2020	<u>482</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>473</u> Agreed Order granting motion for relief from stay by Creditor PensionDanmark Pensionsforsikringsaktieselskab (related document <u>218</u> ) Entered on 2/24/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 02/26/2020. (Admin.)
02/27/2020	<u>483</u> Application to employ Deloitte Tax LLP as Other Professional ( <i>Debtor's Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Crawford Declaration # <u>2</u> Exhibit B—Proposed Order) (Annable, Zachery)
02/28/2020	<u>484</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> )). (Annable, Zachery)
02/28/2020	<u>485</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through January 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—OCP Tracking Report) (Annable, Zachery)
03/02/2020	<u>486</u> Response opposed to (related document(s): <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party California Public Employees Retirement System (CalPERS). (Attachments: # <u>1</u> Exhibit A – Purchase and Sale Agreement # <u>2</u> Exhibit B – Assignment and Assumption Agreement) (Shriro, Michelle)
03/02/2020	<u>487</u> Objection to (related document(s): <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
03/02/2020	<u>488</u> Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof Filed by Debtor Highland Capital Management, L.P.(related document # <u>421</u> ) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)
03/02/2020	<u>489</u> Joinder by <i>Acis Capital Management, L.P. and Acis Capital Management GP, LLC to the Committee's Objection to the Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities,"</i> and



	<i>Comment to the Same</i> filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <a href="#">487</a> Objection). (Enright, Jason)
03/02/2020	<a href="#">490</a> Motion to appear pro hac vice for Louis J. Cisz, III. Fee Amount \$100 Filed by Interested Party California Public Employees Retirement System (CalPERS) (Shriro, Michelle)
03/02/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27511024, amount \$ 100.00 (re: Doc# <a href="#">490</a> ). (U.S. Treasury)
03/02/2020	<a href="#">491</a> Certificate of service re: <i>1) Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"; 2) Debtor's Motion for an Expedited Hearing on the Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">474</a> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P., <a href="#">475</a> Motion for expedited hearing(related documents <a href="#">474</a> Motion for authority to apply and disburse funds) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/02/2020	<a href="#">492</a> Certificate of service re: <i>1) Order Granting Debtor's Motion for an Expedited Hearing on the Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"; 2) Notice of Hearing on the Motion of the Debtor for Entry of an Order Authorizing, But Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"; to be Held on March 4, 2020 at 1:30 p.m. (Prevailing Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">477</a> Order granting motion for expedited hearing (Related Doc <a href="#">475</a> )(document set for hearing: <a href="#">474</a> Motion for authority to apply and disburse funds) Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <a href="#">474</a> , Entered on 2/25/2020. (Okafor, M.), <a href="#">478</a> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">474</a> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G)). Hearing to be held on 3/4/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <a href="#">474</a> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/02/2020	<a href="#">493</a> Certificate of service re: <i>1) Witness and Exhibit List for March 4, 2020 Hearing; 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">484</a> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">474</a> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> )). filed by Debtor Highland Capital Management, L.P., <a href="#">485</a> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through January 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">176</a> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # 1 Exhibit A—OCP Tracking Report) filed

	by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/02/2020	<u>494</u> Objection to (related document(s): <u>451</u> Motion for relief from stay Fee amount \$181, filed by Creditor Joshua Terry, Creditor Jennifer G. Terry)( <i>Debtor's Limited Objection to Motion for Relief from the Automatic Stay to Allow Pursuit of State Court Action Against Non-Debtors and Reservation of Rights</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/02/2020	<u>495</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>487</u> Objection). (Hoffman, Juliana)
03/02/2020	<u>496</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> )). (Enright, Jason)
03/03/2020	<u>497</u> Debtor-in-possession monthly operating report for filing period January 1, 2020 to January 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/03/2020	<u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
03/04/2020	<u>499</u> Reply to (related document(s): <u>487</u> Objection filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
03/04/2020	<u>500</u> Order granting motion to appear pro hac vice adding Louis J. Cisz for California Public Employees Retirement System (CalPERS) (related document # <u>490</u> ) Entered on 3/4/2020. (Okafor, M.)
03/04/2020	<u>501</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, Counsel</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 1/1/2020 to 1/31/2020, Fee: \$569,091.60, Expenses: \$12,673.30. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 3/25/2020. (Hoffman, Juliana)
03/04/2020	Hearing held on 3/4/2020. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) filed by Debtor Highland Capital Management, L.P.) (Appearances (live): J. Pomeranz, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid, and J. Hoffman for UCC; M. Platt for Redeemer Committee; R. Patel and B. Shaw for ACIS; M. Shriro for CALPERS; A. Anderson for certain Cayman issuers; D.M. Lynn for J. Dondero. Appearances (telephonic): A. Attarwala for UBS; J. Bentley for certain Cayman issuers; E. Cheng for FTI Consulting; L. Cisz for CALPERS; T. Mascherin for Redeemer Committee. Evidentiary hearing. Motion resolved as follows: money owing to related entities will go into the registry of the court with the following exception—Mark Okada may be paid approximately \$2.876 (the \$4.176 million owing to him from the Dynamic Fund will be offset against his \$1.3 million demand note owing to the Debtor). All parties rights are reserved with regard to funds being put in the registry of the court. Debtors counsel should upload order.) (Edmond, Michael) (Entered: 03/05/2020)
03/04/2020	<u>504</u> Court admitted exhibits date of hearing March 4, 2020 (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds ( <i>Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities"</i> ) Filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED EXHIBIT'S #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, & #12) (Edmond, Michael) (Entered: 03/05/2020)

03/05/2020	<u>502</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>442</u> Application for compensation <i>Second Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 12/1/2019 to 12/31/2019, Fee: \$89,215.36, Expenses: \$3,955.12). (Hoffman, Juliana)
03/05/2020	<u>503</u> Request for transcript regarding a hearing held on 3/4/2020. The requested turn-around time is daily (Jeng, Hawaii)
03/06/2020	<u>505</u> Notice of Appearance and Request for Notice by John Y. Bonds III filed by Interested Party James Dondero. (Bonds, John)
03/06/2020	<u>506</u> Notice of Appearance and Request for Notice by Bryan C. Assink filed by Interested Party James Dondero. (Assink, Bryan)
03/06/2020	<u>507</u> Motion to appear pro hac vice for Jeffrey Bjork. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Hoffman, Juliana) Modified to correct attorney name on 3/6/2020 (Ecker, C.).
03/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27531772, amount \$ 100.00 (re: Doc# <u>507</u> ). (U.S. Treasury)
03/06/2020	<u>508</u> Witness and Exhibit List filed by Jennifer G. Terry, Joshua Terry (RE: related document(s) <u>451</u> Motion for relief from stay Fee amount \$181.). (Shaw, Brian)
03/06/2020	<u>509</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>500</u> Order granting motion to appear pro hac vice adding Louis J. Cisz for California Public Employees Retirement System (CalPERS) (related document <u>490</u> ) Entered on 3/4/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 03/06/2020. (Admin.)
03/10/2020	<u>510</u> Order granting motion to appear pro hac vice adding Jeffrey E. Bjork for UBS AG London Branch and UBS Securities LLC (related document # <u>507</u> ) Entered on 3/10/2020. (Okafor, M.)
03/11/2020	<u>511</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)) Responses due by 3/25/2020. (Ecker, C.)
03/11/2020	<u>512</u> Order authorizing, but not directing, the debtor to cause distributions to certain 'related entities'. (Related Doc # <u>474</u> ) Entered on 3/11/2020. (Bradden, T.)
03/11/2020	<u>513</u> Order granting application to employ Foley Gardere, Foley & Lardner LLP as Special Texas Counsel (related document # <u>68</u> ) Entered on 3/11/2020. (Bradden, T.)
03/11/2020	<u>514</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)) Responses due by 3/25/2020. (Ecker, C.)
03/11/2020	Hearing held on 3/11/2020. (RE: related document(s) <u>451</u> Motion for relief from stay, filed by Jennifer G. Terry, Joshua Terry.) (Appearances: M. Hayward for Debtor; B Shaw

	for Movants; J. Hoffman for UCC; M. Platt (and M. Hankin telephonically) for Redeemer Committee; J. Bonds for J. Dondero; A. Anderson for certain Issuers. Evidentiary hearing. Motion granted. Counsel to upload order.)(Edmond, Michael)
03/11/2020	<u>515</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2020 through January 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—DSI January 2020 Staffing Report) (Annable, Zachery)
03/11/2020	<u>516</u> Court admitted exhibits date of hearing March 11, 2020 (RE: related document(s) <u>451</u> Motion for relief from stay, filed by Jennifer G. Terry, Joshua Terry.) (COURT ADMITTED PLAINTIFF EXHIBIT'S #M1, #M2 & #M3). (Edmond, Michael)
03/12/2020	<u>517</u> Application for compensation <i>Third Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 1/31/2020, Fee: \$411,407.28, Expenses: \$79.00. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/2/2020. (Hoffman, Juliana)
03/12/2020	<u>518</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>510</u> Order granting motion to appear pro hac vice adding Jeffrey E. Bjork for UBS AG London Branch and UBS Securities LLC (related document <u>507</u> ) Entered on 3/10/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 03/12/2020. (Admin.)
03/13/2020	<u>519</u> Order granting motion for relief from stay by Jennifer G. Terry , Joshua Terry (related document # <u>451</u> ) Entered on 3/13/2020. (Okafor, M.)
03/13/2020	<u>520</u> BNC certificate of mailing. (RE: related document(s) <u>511</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>68</u> Application/Motion to Employ/Retain Foley Gardere, Foley & Lardner LLP as Special Texas Counsel Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A # 3 Exhibit B # 4 Exhibit C – Proposed Order # 5 2016 Statement # 6 Declaration Frank Waterhouse # 7 Certificate of Service) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #69 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)) Responses due by 3/25/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/13/2020	<u>521</u> BNC certificate of mailing. (RE: related document(s) <u>514</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order)) Responses due by 3/25/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/13/2020	<u>522</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>512</u> Order authorizing, but not directing, the debtor to cause distributions to certain 'related entities'. (Related Doc <u>474</u> ) Entered on 3/11/2020. (Bradden, T.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)
03/13/2020	<u>523</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>513</u> Order granting application to employ Foley Gardere, Foley & Lardner LLP as Special Texas Counsel (related document <u>68</u> ) Entered on 3/11/2020. (Bradden, T.)) No. of Notices: 1. Notice Date 03/13/2020. (Admin.)



03/14/2020	<u>524</u> Certificate of service re: <i>Order (I) Establishing Bar Dates for Filing Claims and (II) Approving the Form and Manner of Notice Thereof</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>488</u> <i>Order Granting Motion (i) Establishing Bar Dates for Filing Claims, Including 503(b)(9) Claims; and (ii) Approving the Form and Manner of Notice Thereof</i> Filed by Debtor Highland Capital Management, L.P.(related document <u>421</u> ) The General Bar Date is April 8, 2020 at 5:00 p.m. Central Time; other dates per Order Entered on 3/2/2020. (Okafor, M.)). (Kass, Albert)
03/14/2020	<u>525</u> Certificate of service re: <i>Debtor's Limited Objection to Motion for Relief from the Automatic Stay to Allow Pursuit of State Court Action Against Non-Debtors and Reservation of Rights</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>494</u> <i>Objection to (related document(s): 451 Motion for relief from stay Fee amount \$181, filed by Creditor Joshua Terry, Creditor Jennifer G. Terry)</i> ( <i>Debtor's Limited Objection to Motion for Relief from the Automatic Stay to Allow Pursuit of State Court Action Against Non-Debtors and Reservation of Rights</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/14/2020	<u>526</u> Certificate of service re: <i>Third Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from January 1, 2020 to and Including January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>501</u> <i>Application for compensation Third Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 1/1/2020 to 1/31/2020, Fee: \$569,091.60, Expenses: \$12,673.30. Filed by Attorney Juliana Hoffman, Creditor Committee Official Committee of Unsecured Creditors Objections due by 3/25/2020. filed by Creditor Committee Official Committee of Unsecured Creditors</i> ). (Kass, Albert)
03/16/2020	<u>527</u> Notice of Appearance and Request for Notice by David G. Adams filed by Creditor United States (IRS). (Adams, David)
03/16/2020	<u>528</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>464</u> <i>Application for compensation Fourth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From January 1, 2020 through January 31, 2020</i> for Highland C). (Annable, Zachery)
03/17/2020	<u>529</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>465</u> <i>Application for compensation (First Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from December 10, 2019 through December 31, 2019)</i> for Hayward). (Annable, Zachery)
03/17/2020	<u>530</u> Certificate of service re: <i>Notice of Bar Dates for Filing Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/17/2020	<u>531</u> Certificate of service re: <i>1) Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain Related Entities; 2) Order Authorizing the Retention and Employment of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel, Nunc Pro Tunc to the Petition Date; 3) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2020 Through January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>512</u> <i>Order authorizing, but not directing, the debtor to cause distributions to certain 'related entities'</i> . (Related Doc <u>474</u> ) Entered on 3/11/2020. (Bradden, T.), <u>513</u> <i>Order granting application to employ Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel</i> (related document <u>68</u> ) Entered on 3/11/2020. (Bradden, T.), <u>515</u> <i>Notice (Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2020 through January 31, 2020)</i> filed by Debtor Highland Capital Management, L.P. (RE: related



	document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.). (Attachments: # 1 Exhibit A—DSI January 2020 Staffing Report) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/17/2020	<u>532</u> Certificate of service re: <i>Third Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from January 1, 2020 to and Including January 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>517</u> Application for compensation <i>Third Monthly Application for Allowance of Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 1/31/2020, Fee: \$411,407.28, Expenses: \$79.00. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/2/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
03/18/2020	<u>533</u> Certificate of service re: Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/18/2020	<u>534</u> Certificate of service re: Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/19/2020	<u>535</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$941,043.50, Expenses: \$8,092.94. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 4/9/2020. (Pomerantz, Jeffrey)
03/19/2020	<u>536</u> Application for compensation ( <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$75315.00, Expenses: \$2919.27. Filed by Attorney Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—January 2020 Invoice) (Annable, Zachery)
03/19/2020	<u>537</u> Notice of Filing of Compensation Report of Development Specialists, Inc. for the Period October 16, 2019 through December 31, 2019 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.). (Annable, Zachery)
03/20/2020	<u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$84,194.00, Expenses: \$4,458.87. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>539</u> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019</i>

	<i>through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>540</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 1/1/2020 to 1/31/2020, Fee: \$88,520.60, Expenses: \$2,180.35. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>541</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 2/1/2020 to 2/29/2020, Fee: \$86,276.50, Expenses: \$1,994.83. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
03/20/2020	<u>542</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2020 to 2/29/2020, Fee: \$457,155.72, Expenses: \$2,927.21.</i> Filed by Attorney Juliana Hoffman Objections due by 4/10/2020. (Hoffman, Juliana)
03/22/2020	<u>543</u> Stipulation by Highland Capital Management, L.P., UBS AG London Branch, UBS Securities LLC and. filed by Debtor Highland Capital Management, L.P., Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>488</u> Order on motion for leave). (Manns, Ryan)
03/23/2020	<u>544</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2020 to 2/29/2020, Fee: \$383,371.20, Expenses: \$59.62. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/13/2020. (Hoffman, Juliana)
03/23/2020	<u>545</u> Motion to extend time to file objection (Agreed Motion) (RE: related document(s) <u>483</u> Application to employ) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)
03/23/2020	<u>546</u> Certificate of service re: <i>(Supplemental) Notice of Bar Dates for Filing Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> <i>Notice of Bar Date for Filing Claims</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/25/2020	<u>547</u> Joint Stipulation and Order Extending Bar Date for UBS Securities LLC and UBS AG London Branch (RE: related document(s) <u>543</u> Stipulation filed by Debtor Highland Capital Management, L.P., Interested Party UBS Securities LLC, Interested Party UBS AG London Branch). Entered on 3/25/2020 (Okafor, M.)
03/25/2020	<u>548</u> Agreed Order Extending the Deadline to Object to the Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief (Related documents # <u>545</u> Motion to extend and <u>483</u> Application to employ Deloitte Tax LLP) Entered on 3/25/2020. (Okafor, M.)
03/26/2020	<u>549</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>501</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period:</i>

	1/1/2020 to 1/31/2020, Fee: \$569). (Hoffman, Juliana)
03/26/2020	<u>550</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>483</u> Application to employ Deloitte Tax LLP as Other Professional ( <i>Debtor's Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date;</i> ). (Annable, Zachery)
03/27/2020	<u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document # <u>483</u> ) Entered on 3/27/2020. (Okafor, M.)
03/27/2020	<u>552</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
03/27/2020	<u>553</u> Certificate of service re: 1) <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 Through February 29, 2020</i> ; 2) <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 Through January 31, 2020</i> ; and 3) <i>Compensation Report of Development Specialists, Inc. for the Period October 16, 2019 Through December 31, 2019</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>535</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$941,043.50, Expenses: \$8,092.94. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 4/9/2020. filed by Debtor Highland Capital Management, L.P., <u>536</u> Application for compensation ( <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 1/1/2020 to 1/31/2020, Fee: \$75315.00, Expenses: \$2919.27. Filed by Attorney Hayward & Associates PLLC (Attachments: # 1 Exhibit A—January 2020 Invoice), <u>537</u> Notice of Filing of <i>Compensation Report of Development Specialists, Inc. for the Period October 16, 2019 through December 31, 2019</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/27/2020	<u>554</u> Certificate of service re: <i>Documents Served on or Before March 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 11/30/2019, Fee: \$84,194.00, Expenses: \$4,458.87. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>539</u> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>540</u> Application for compensation <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as</i>

	<p><i>Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020 for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 1/1/2020 to 1/31/2020, Fee: \$88,520.60, Expenses: \$2,180.35. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <a href="#">541</a> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020 for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 2/1/2020 to 2/29/2020, Fee: \$86,276.50, Expenses: \$1,994.83. Filed by Attorney Holland N. O'Neil Objections due by 4/10/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <a href="#">542</a> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2020 to 2/29/2020, Fee: \$457,155.72, Expenses: \$2,927.21. Filed by Attorney Juliana Hoffman Objections due by 4/10/2020. filed by Creditor Committee Official Committee of Unsecured Creditors).</i> (Kass, Albert)</i></i></p>
03/27/2020	<p><a href="#">555</a> Certificate of service re: <i>1) Fourth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from February 1, 2020 to and Including February 29, 2020; 2) Agreed Motion to Extend Objection Deadline for the Debtor's Application for Entry of an Order (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider to the Debtor Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">544</a> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2020 to 2/29/2020, Fee: \$383,371.20, Expenses: \$59.62. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/13/2020. filed by Financial Advisor FTI Consulting, Inc., <a href="#">545</a> Motion to extend time to file objection (Agreed Motion) (RE: related document(s)<a href="#">483</a> Application to employ) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</i></p>
03/31/2020	<p><a href="#">556</a> Order approving stipulation permitting Brown Rudnick LLP to file a proof of claim after general bar date (RE: related document(s)<a href="#">552</a> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 3/31/2020 (Okafor, M.)</p>
03/31/2020	<p><a href="#">557</a> Motion to extend time to (Debtor's Emergency Motion for an Order Extending Bar Date Deadline for Employees to File Claims) (RE: related document(s)<a href="#">488</a> Order on motion for leave) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <a href="#">1</a> Exhibit A—Proposed Order) (Annable, Zachery)</p>
04/02/2020	<p><a href="#">558</a> Debtor-in-possession monthly operating report for filing period 02/01/2020 to 02/29/2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
04/02/2020	<p><a href="#">559</a> Certificate of service re: <i>(Supplemental) Notice of Bar Dates for Filing Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">498</a> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/03/2020	<p><a href="#">560</a> Order granting <a href="#">557</a> Motion Extending Bar Date Deadline for Employees to File Claims. The General Bar Date is hereby extended, solely for the Debtors employees, to file claims that arose against the Debtor prior to the Petition Date through and including May 26, 2020 at 5:00 p.m. Entered on 4/3/2020. (Okafor, M.)</p>
04/03/2020	<p><a href="#">561</a> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)<a href="#">517</a> Application for compensation <i>Third Monthly Application for Allowance of Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2020 to 1/31/2020, Fee: \$411,407.28, Expenses: \$79.00.</i>) (Hoffman, Juliana)</p>



04/03/2020	<u>562</u> Notice of hearing( <i>Notice of May 26, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm (Annable, Zachery)
04/03/2020	<u>563</u> Notice of hearing( <i>Notice of June 15, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 6/15/2020 at 01:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
04/03/2020	<u>564</u> Certificate of service re: <i>1) Agreed Order: (A) Authorizing the Employment and Retention of Deloitte Tax LLP as Tax Services Provider Nunc Pro Tunc to the Petition Date; and (B) Granting Related Relief; 2) Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u> ) Entered on 3/27/2020. (Okafor, M.), <u>552</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/03/2020	<u>565</u> Certificate of service re: <i>1) Order Approving Stipulation Permitting Brown Rudnick LLP to File a Proof of Claim After the General Bar Date; 2) Debtor's Emergency Motion for an Order Extending Bar Date Deadline for Employees to File Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>556</u> Order approving stipulation permitting Brown Rudnick LLP to file a proof of claim after general bar date (RE: related document(s) <u>552</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 3/31/2020 (Okafor, M.), <u>557</u> Motion to extend time to (Debtor's Emergency Motion for an Order Extending Bar Date Deadline for Employees to File Claims) (RE: related document(s) <u>488</u> Order on motion for leave) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/06/2020	<u>566</u> Declaration re: ( <i>First Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Annable, Zachery)
04/06/2020	<u>567</u> Notice ( <i>Notice of Filing of Monthly Staffing Report By Development Specialists, Inc for the Period from February 1, 2020 through February 29, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Staffing Report) (Annable, Zachery)
04/07/2020	<u>568</u> Notice of hearing( <i>Notice of July 8, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
04/07/2020	<u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020. (Hoffman, Juliana)
04/07/2020	<u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI



	Consulting, Inc. Objections due by 4/28/2020. (Hoffman, Juliana)
04/08/2020	<u>571</u> Transcript regarding Hearing Held 03/04/20 RE: Motion hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 07/7/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber J&J Court Transcribers, Inc., Telephone number 609-586-2311. (RE: related document(s) Hearing held on 3/4/2020. (RE: related document(s) <u>474</u> Motion for authority to apply and disburse funds (Motion of the Debtor for Entry of an Order Authorizing, but Not Directing, the Debtor to Cause Distributions to Certain "Related Entities") filed by Debtor Highland Capital Management, L.P.) (Appearances (live): J. Pomeranz, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid, and J. Hoffman for UCC; M. Platt for Redeemer Committee; R. Patel and B. Shaw for ACIS; M. Shriro for CALPERS; A. Anderson for certain Cayman issuers; D.M. Lynn for J. Dondero. Appearances (telephonic): A. Attarwala for UBS; J. Bentley for certain Cayman issuers; E. Cheng for FTI Consulting; L. Cisz for CALPERS; T. Mascherin for Redeemer Committee. Evidentiary hearing. Motion resolved as follows: money owing to related entities will go into the registry of the court with the following exception—Mark Okada may be paid approximately \$2.876 (the \$4.176 million owing to him from the Dynamic Fund will be offset against his \$1.3 million demand note owing to the Debtor). All parties rights are reserved with regard to funds being put in the registry of the court. Debtors counsel should upload order.)). Transcript to be made available to the public on 07/7/2020. (Bowen, James)
04/08/2020	<u>572</u> Stipulation by Issuer Group and Highland Capital Management, L.P.. filed by Creditor Issuer Group (RE: related document(s) <u>488</u> Order on motion for leave). (Bain, Joseph)
04/09/2020	<u>573</u> Application for compensation ( <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$39,087.50, Expenses: \$2,601.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—February 2020 Fee Statement) (Annable, Zachery)
04/09/2020	<u>574</u> Certificate No Objection Regarding Fifth Monthly Application for Compensation and Reimbursement of Expenses Of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period From February 1, 2020 Through February 29, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>535</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> for Jeffrey Nat). (Pomerantz, Jeffrey)
04/10/2020	<u>575</u> Certificate of service re: 1) <i>Order Granting Debtor's Emergency Motion and Extending Bar Date Deadline for Employees to File Claims</i> ; 2) <i>Notice of May 26, 2020 Omnibus Hearing Date; to be Held on May 26, 2020 at 9:30 a.m. (Central Time)</i> ; and 3) <i>Notice of June 15, 2020 Omnibus Hearing Date; to be Held on June 15, 2020 at 1:30 p.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>560</u> Order granting <u>557</u> Motion Extending Bar Date Deadline for Employees to File Claims. The General Bar Date is hereby extended, solely for the Debtors employees, to file claims that arose against the Debtor prior to the Petition Date through and including May 26, 2020 at 5:00 p.m. Entered on 4/3/2020. (Okafor, M.), <u>562</u> Notice of hearing( <i>Notice of May 26, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P., <u>563</u> Notice of hearing( <i>Notice of June 15, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 6/15/2020 at 01:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/10/2020	<u>576</u> Certificate of service re: 1) <i>First Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and</i>

	<p><i>Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date; and 2) Notice of Filing of Monthly Staffing Report By Development Specialists, Inc for the Period from February 1, 2020 through February 29, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>566</u> Declaration re: <i>(First Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). filed by Debtor Highland Capital Management, L.P., <u>567</u> Notice <i>(Notice of Filing of Monthly Staffing Report By Development Specialists, Inc for the Period from February 1, 2020 through February 29, 2020)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.). (Attachments: # 1 Exhibit A—Staffing Report) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/10/2020	<p><u>577</u> Certificate of service re: <i>1) Summary Sheet and First Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from October 29, 2019 Through and Including February 29, 2020; and 2) Summary Sheet and First Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from October 29, 2019 Through and Including February 29, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47.</i> Filed by Objections due by 4/28/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09.</i> Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</p>
04/10/2020	<p><u>578</u> Certificate of service re: <i>Notice of July 8, 2020 Omnibus Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>568</u> Notice of hearing<i>(Notice of July 8, 2020 Omnibus Hearing Date)</i> filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/10/2020	<p><u>579</u> Certificate of service re: <i>Joint Stipulation and [Proposed] Order Extending the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>572</u> Stipulation by Issuer Group and Highland Capital Management, L.P.. filed by Creditor Issuer Group (RE: related document(s)<u>488</u> Order on motion for leave). filed by Creditor Issuer Group). (Kass, Albert)</p>
04/10/2020	<p><u>580</u> Objection to (related document(s): <u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through November</i> filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <u>539</u> Amended application for compensation <i>Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through</i> filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <u>540</u> Application for compensation <i>Third Monthly Application for Compensation and</i></p>

	<i>Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>541</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Chiarello, Annmarie)
04/11/2020	<u>581</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>542</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP, Counsel for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2020 to 2/29/2020, Fee: &amp;#0).</i> (Hoffman, Juliana)
04/13/2020	<u>582</u> Motion for relief from stay – agreed Filed by Interested Party Hunton Andrews Kurth LLP (Attachments: # <u>1</u> Proposed Order) (Skolnekovich, Nicole)
04/14/2020	<u>583</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>544</u> Application for compensation <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2020 to 2/29/2020, Fee: \$383,371.20, Expenses: \$59.62).</i> (Hoffman, Juliana)
04/14/2020	<u>584</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>536</u> Application for compensation <i>(Second Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020)</i> for Hayward & Associates PLLC). (Annable, Zachery)
04/14/2020	<u>585</u> Notice of Appearance and Request for Notice Filed by Creditor American Express National Bank. (Bharatia, Shraddha)
04/14/2020	<u>586</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$1,222,801.25, Expenses: \$18,747.77. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/5/2020. (Pomerantz, Jeffrey)
04/15/2020	<u>587</u> Certificate of service re: <i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>573</u> Application for compensation <i>(Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020)</i> for Hayward & Associates PLLC, Debtor's Attorney, Period: 2/1/2020 to 2/29/2020, Fee: \$39,087.50, Expenses: \$2,601.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—February 2020 Fee Statement) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)
04/15/2020	<u>588</u> Certificate of service re: Omnibus Limited Objection to Applications for Compensation and Reimbursement of Expense of Foley Gardere, Foley & Lardner LLP as Special Counsel for the Period From October 16, 2019 Through February 29, 2020 filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>538</u> Amended application for compensation <i>Amended First Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019</i>



	<i>through November, <u>539</u> Amended application for compensation Amended Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through, <u>540</u> Application for compensation Third Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from January 1, 2020 through January 31, 2020 <u>541</u> Application for compensation Fourth Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from February 1, 2020 through February 29, 20).</i> (Chiarello, Annmarie)
04/15/2020	<u>589</u> Notice of hearing filed by Interested Party Hunton Andrews Kurth LLP (RE: related document(s) <u>582</u> Motion for relief from stay – agreed Filed by Interested Party Hunton Andrews Kurth LLP (Attachments: # 1 Proposed Order)). Hearing to be held on 5/7/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>582</u> , (Skolnekovich, Nicole)
04/15/2020	<u>590</u> Motion to reclaim funds from the registry/[ <i>Motion for Remittance of Funds Held in Registry of Court</i> ] Filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Proposed Order # <u>11</u> Service List) (Kane, John)
04/17/2020	<u>591</u> Certificate of service re: <i>1) Notice of Bar Dates for Filing Claims; and 2) [Customized] Official Form 410 Proof of Claim</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/17/2020	<u>592</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from March 1, 2020 through March 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—DSI Staffing Report for March 2020) (Annable, Zachery)
04/17/2020	<u>593</u> Motion for relief from stay Fee amount \$181, Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. Objections due by 5/1/2020. (Attachments: # <u>1</u> Exhibit 1 (Draft Motion Show Cause Motion) # <u>2</u> Exhibit 2 (DAF Complaint 1st case) # <u>3</u> Exhibit 3 (DAF Dismissal first case) # <u>4</u> Exhibit 4 (DAF Complaint 2nd case) # <u>5</u> Exhibit 5 (DAF Dismissal 2nd Case) # <u>6</u> Proposed Order) (Shaw, Brian)
04/17/2020	Receipt of filing fee for Motion for relief from stay(19–34054–sgj11) [motion,mrlfsty] ( 181.00). Receipt number 27675692, amount \$ 181.00 (re: Doc# <u>593</u> ). (U.S. Treasury)
04/20/2020	<u>594</u> Application for compensation <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 3/31/2020, Fee: \$476,836.20, Expenses: \$14,406.39. Filed by Attorney Juliana Hoffman Objections due by 5/11/2020. (Hoffman, Juliana)
04/21/2020	<u>595</u> Certificate of service re: <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>586</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$1,222,801.25, Expenses: \$18,747.77. Filed by Attorney

	Jeffrey Nathan Pomerantz Objections due by 5/5/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/21/2020	<u>596</u> Certificate of service re: <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>594</u> Application for compensation <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 3/31/2020, Fee: \$476,836.20, Expenses: \$14,406.39. Filed by Attorney Juliana Hoffman Objections due by 5/11/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
04/21/2020	<u>597</u> Certificate of service re: <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from March 1, 2020 through March 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>592</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc for the Period from March 1, 2020 through March 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—DSI Staffing Report for March 2020) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/22/2020	Receipt Number 00338531, Fee Amount \$3,601,018.59 (RE: Related document(s) <u>512</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd,K) (Entered: 08/10/2020)
04/23/2020	Receipt Number 00338532, Fee Amount \$898,075.53 (RE: related document(s) <u>512</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)
04/24/2020	<u>598</u> Application for compensation ( <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$35,307.50, Expenses: \$1,732.02. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A March 2020 Invoice) (Annable, Zachery)
04/24/2020	<u>599</u> Notice ( <i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u> ) Entered on 3/27/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Deloitte Tax Engagement Letters) (Annable, Zachery)
04/28/2020	<u>600</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
04/28/2020	<u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 3/1/2020 to 3/31/2020, Fee: \$82,270.50, Expenses: \$12.70. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
04/28/2020	<u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere,



	Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland)
04/28/2020	<u>603</u> Certificate of service re: 1) <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> ; and 2) <i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>598</u> <i>Application for compensation (Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020)</i> for Hayward & Associates PLLC, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$35,307.50, Expenses: \$1,732.02. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A March 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>599</u> <i>Notice (Notice of Additional Services to Be Provided by Deloitte Tax LLP)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>551</u> <i>Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date</i> (related document <u>483</u> ) Entered on 3/27/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—Deloitte Tax Engagement Letters) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/28/2020	<u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel ( <i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Alexander McGeoch # <u>2</u> Exhibit B—Proposed Order) (Annable, Zachery)
04/28/2020	<u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel ( <i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Timothy Silva # <u>2</u> Exhibit B—Proposed Order) (Annable, Zachery)
04/28/2020	<u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> <i>Order on motion to extend/shorten time</i> ) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
04/28/2020	<u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020. (Pomerantz, Jeffrey)
04/28/2020	<u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020. (Pomerantz, Jeffrey)
04/28/2020	<u>609</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A

	Fee Statements) (Annable, Zachery)
04/28/2020	<p><u>610</u> Notice of hearing <i>Omnibus Notice of Hearing on First Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020., <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020., <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland), <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020., <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020., <u>609</u> Application for compensation <i>(Hayward &amp; Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020)</i> for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—H&amp;A Fee Statements)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>569</u> and for <u>607</u> and for <u>609</u> and for <u>570</u> and for <u>602</u> and for <u>608</u>, (Pomerantz, Jeffrey)</p>
04/28/2020	<p><u>611</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Alexander McGeoch # 2 Exhibit B—Proposed Order), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order), <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>605</u> and for <u>604</u> and for <u>606</u>, (Annable, Zachery)</p>
04/28/2020	<p><u>612</u> Certificate of service re: (<i>Supplemental 1) Notice of Bar Dates for Filing Claims; and 2) [Customized] Official Form 410 Proof of Claim</i>) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>498</u> Notice of Bar Date for Filing Claims filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>

04/29/2020	<u>613</u> Clerk's correspondence requesting a notice of hearing from attorney for debtor. (RE: related document(s) <u>394</u> Application for compensation <i>Second Monthly Application for Compensation and Reimbursement of Expenses of Foley Gardere, Foley &amp; Lardner LLP as Proposed Special Texas Counsel to the Debtor for the Period from December 1, 2019 through December 30, 2019</i> for Foley Gardere, Foley & Lardner LLP f/k/a Gardere Wynne Sewell LLP, Special Counsel, Period: 12/1/2019 to 12/31/2019, Fee: \$143,328.50, Expenses: \$2,808.29. Filed by Attorney Holland N. O'Neil Objections due by 2/14/2020. (O'Neil, Holland)) Responses due by 5/13/2020. (Ecker, C.)
04/29/2020	<u>614</u> Order approving second stipulation permitting Brown Rudnick LLP to file proof of claims after the general bar date (RE: related document(s) <u>600</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 4/29/2020 (Okafor, M.)
04/29/2020	<u>615</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease (RE: related document(s) <u>429</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
04/30/2020	<u>616</u> Agreed Order extending deadline to assume or reject unexpired nonresidential real property lease by sixty days (RE: <u>615</u> Motion to extend time.) Entered on 4/30/2020. (Okafor, M.)
05/01/2020	<u>617</u> Response unopposed to (related document(s): <u>593</u> Motion for relief from stay Fee amount \$181, filed by Creditor Acis Capital Management GP, LLC, Creditor Acis Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
05/05/2020	<u>618</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
05/05/2020	<u>619</u> Certificate of service re: <i>Documents Served on April 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>600</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P., <u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 3/1/2020 to 3/31/2020, Fee: \$82,270.50, Expenses: \$12.70. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>603</u> Certificate of service re: 1) <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> ; and 2) <i>Notice of Additional Services to Be Provided by Deloitte Tax LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>598</u> Application for compensation ( <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period</i>



from March 1, 2020 through March 31, 2020) for Hayward & Associates PLLC, Debtor's Attorney, Period: 3/1/2020 to 3/31/2020, Fee: \$35,307.50, Expenses: \$1,732.02. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A March 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, 599 Notice (Notice of Additional Services to Be Provided by Deloitte Tax LLP) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)551 Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document 483) Entered on 3/27/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—Deloitte Tax Engagement Letters) filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC, 604 Application to employ Hunton Andrews Kurth LLP as Special Counsel (Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Alexander McGeoch # 2 Exhibit B—Proposed Order) filed by Debtor Highland Capital Management, L.P., 605 Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order) filed by Debtor Highland Capital Management, L.P., 606 Motion to extend or limit the exclusivity period (RE: related document(s)460 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., 607 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020* for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020. filed by Debtor Highland Capital Management, L.P., 608 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020* for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020. filed by Consultant Mercer (US) Inc., 609 Application for compensation (*Hayward & Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020*) for Hayward & Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Fee Statements) filed by Other Professional Hayward & Associates PLLC, 610 Notice of hearing *Omnibus Notice of Hearing on First Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals* filed by Debtor Highland Capital Management, L.P. (RE: related document(s)569 Application for compensation *Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses* for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,154,959.45, Expenses: \$56,254.47. Filed by Objections due by 4/28/2020., 570 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses* for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 4/28/2020., 602 Application for compensation *First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020* for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland), 607 Application for compensation *First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 2020* for Jeffrey Nathan Pomerantz,



	<p>Debtor's Attorney, Period: 10/16/2019 to 3/31/2020, Fee: \$4,834,021.00, Expenses: \$118,198.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/19/2020., <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 2/29/2020, Fee: \$113,804.64, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 5/19/2020., <u>609</u> Application for compensation (<i>Hayward &amp; Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 12/10/2019 to 3/31/2020, Fee: \$168,405.00, Expenses: \$7,333.29. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—H&amp;A Fee Statements)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>569</u> and for <u>607</u> and for <u>609</u> and for <u>570</u> and for <u>602</u> and for <u>608</u>, filed by Debtor Highland Capital Management, L.P., <u>611</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Alexander McGeoch # 2 Exhibit B—Proposed Order), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order), <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>460</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/22/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 5/26/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>605</u> and for <u>604</u> and for <u>606</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
05/05/2020	<p><u>620</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>488</u> Order on motion for leave). (Attachments: # <u>1</u> Exhibit A—Employee Letter) (Annable, Zachery)</p>
05/05/2020	<p><u>621</u> Certificate of No Objection Regarding Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020 filed by Other Professional Hayward &amp; Associates PLLC (RE: related document(s)<u>573</u> Application for compensation (<i>Third Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from February 1, 2020 through February 29, 2020</i>) for Hayward &amp;). (Annable, Zachery)</p>
05/05/2020	<p><u>622</u> Certificate No Objection Regarding Sixth Monthly Application for Compensation and Reimbursement of Expenses Of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>586</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period From March 1, 2020 Through March 31, 2020</i> for Jeffrey Nathan Po). (Pomerantz, Jeffrey)</p>
05/06/2020	<p><u>623</u> Stipulation and Agreed Order Permitting Hunton Andrews Kurth LLP to Apply Prepetition Retainer (related document # <u>582</u>) Entered on 5/6/2020. (Okafor, M.)</p>
05/06/2020	<p><u>624</u> Objection to (related document(s): <u>590</u> Motion to reclaim funds from the registry/<i>Motion for Remittance of Funds Held in Registry of Court</i>) filed by Creditor CLO Holdco, Ltd.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>

05/06/2020	<u>625</u> Certificate of service re: Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>624</u> Objection). (Hoffman, Juliana)
05/06/2020	<u>626</u> Certificate of service re: <i>1) Order Approving Second Stipulation Permitting Brown Rudnick LLP to File Proofs of Claim after the General Bar Date; and 2) Agreed Motion to Extend by Sixty Days the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>614</u> Order approving second stipulation permitting Brown Rudnick LLP to file proof of claims after the general bar date (RE: related document(s) <u>600</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 4/29/2020 (Okafor, M.), <u>615</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease (RE: related document(s) <u>429</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/06/2020	<u>627</u> Certificate of service re: <i>Agreed Order Extending Deadline to Assume or Reject Unexpired Nonresidential Property Lease by Sixty Days</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>616</u> Agreed Order extending deadline to assume or reject unexpired nonresidential real property lease by sixty days (RE: <u>615</u> Motion to extend time.) Entered on 4/30/2020. (Okafor, M.)). (Kass, Albert)
05/08/2020	<u>628</u> Order approving joint stipulation of the Debtor and the Official Committee of the Unsecured Creditors modifying the Bar Date Order (RE: related document(s) <u>620</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 5/8/2020 (Okafor, M.)
05/12/2020	<u>629</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>594</u> Application for compensation <i>Sidley Austin LLP's Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 3/31/2020, Fee: \$476.). (Hoffman, Juliana)
05/13/2020	<u>630</u> Reply to (related document(s): <u>624</u> Objection filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor CLO Holdco, Ltd.. (Attachments: # <u>1</u> Service List) (Kane, John)
05/13/2020	<u>631</u> Certificate of service re: <i>1) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2020; and 2) Joint Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors Modifying the Bar Date Order</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>618</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>620</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Attachments: # <u>1</u> Exhibit A—Employee Letter) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/13/2020	<u>632</u> Certificate of service re: <i>Stipulation and Agreed Order Permitting Hunton Andrew Kurth LLP to Apply Prepetition Retainer</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>623</u> Stipulation and Agreed Order Permitting Hunton Andrews Kurth LLP to Apply Prepetition Retainer (related document <u>582</u> ) Entered on 5/6/2020. (Okafor, M.) filed by Interested Party Hunton Andrews Kurth LLP). (Kass,

	Albert)
05/13/2020	<u>633</u> Certificate of service re: <i>Order Approving Joint Stipulation of the Debtor and the Official Committee of Unsecured Creditors Modifying Bar Date Order</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>628</u> Order approving joint stipulation of the Debtor and the Official Committee of the Unsecured Creditors modifying the Bar Date Order (RE: related document(s) <u>620</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 5/8/2020 (Okafor, M.)). (Kass, Albert)
05/14/2020	<u>634</u> Debtor-in-possession monthly operating report for filing period March 1, 2020 to March 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/15/2020	<u>635</u> Notice of hearing filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry/ <i>Motion for Remittance of Funds Held in Registry of Court</i> ) Filed by Creditor CLO Holdco, Ltd. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Proposed Order # 11 Service List)). Hearing to be held on 6/30/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>590</u> , (Attachments: # <u>1</u> Service List) (Kane, John)
05/19/2020	<u>636</u> Notice of Appearance and Request for Notice by Martin A. Sosland filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
05/19/2020	<u>637</u> Notice of Appearance and Request for Notice by Candice Marie Carson filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Carson, Candice)
05/19/2020	<u>638</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
05/19/2020	<u>639</u> Application for compensation <i>Sixth Monthly Application of Sidley Austin LLP for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2020 to 4/30/2020, Fee: \$438,619.32, Expenses: \$5,765.07. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 6/9/2020. (Hoffman, Juliana)
05/19/2020	<u>640</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 3/31/2020, Fee: \$477,538.20, Expenses: \$14,937.66. Filed by Attorney Juliana Hoffman Objections due by 6/9/2020. (Hoffman, Juliana)
05/19/2020	<u>641</u> Objection to (related document(s): <u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere, filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Chiarello, Annmarie)
05/20/2020	<u>642</u> Trustee's Objection to <i>Foley &amp; Lardner, LLP's First Interim Application for Fees and Expenses</i> (RE: related document(s) <u>602</u> Application for compensation) (Lambert, Lisa)
05/20/2020	<u>643</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>598</u> Application for compensation ( <i>Fourth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> ) for Hayward & Asso). (Annable, Zachery)

05/20/2020	<u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K) (Sosland, Martin)
05/20/2020	<u>645</u> Notice of hearing filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K)). Hearing to be held on 6/15/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>644</u> , (Sosland, Martin)
05/20/2020	Receipt of filing fee for Motion for relief from stay(19-34054-sgj11) [motion,mrlfsty] ( 181.00). Receipt number 27774088, amount \$ 181.00 (re: Doc# <u>644</u> ). (U.S. Treasury)
05/20/2020	<u>646</u> Order approving third stipulation permitting Brown Rudnick LLP to file proof of claims after the general bar date (RE: related document(s) <u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 5/20/2020 (Okafor, M.)
05/20/2020	<u>647</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>601</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from March 1, 2020 through March 31, 2020</i> for Foley Gardere,, <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga). (Attachments: # <u>1</u> Exhibit 9 # <u>2</u> Exhibit 10 # <u>3</u> Exhibit 11 # <u>4</u> Exhibit 12 # <u>5</u> Exhibit 13 # <u>6</u> Exhibit 14 # <u>7</u> Exhibit 15 # <u>8</u> Exhibit 16 # <u>9</u> Exhibit 17 # <u>10</u> Exhibit 18 # <u>11</u> Exhibit 19 # <u>12</u> Exhibit 20 # <u>13</u> Exhibit 21 # <u>14</u> Exhibit 22 # <u>15</u> Exhibit 23 # <u>16</u> Exhibit 24 # <u>17</u> Exhibit 25) (Chiarello, Annmarie)
05/21/2020	<u>648</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtors for the Period From April 1, 2020 Through April 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$1,113,522.50, Expenses: \$3,437.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 6/11/2020. (Pomerantz, Jeffrey)
05/22/2020	<u>649</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 20</i> ). (Annable, Zachery)
05/22/2020	<u>650</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020</i> for Mercer (). (Annable, Zachery)
05/22/2020	<u>651</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 2/29/2020, Fee: \$3</i> ). (Hoffman, Juliana)



05/22/2020	<u>652</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09.). (Hoffman, Juliana)
05/22/2020	<u>653</u> Declaration re: ( <i>Second Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). (Annable, Zachery)
05/22/2020	<u>654</u> Witness and Exhibit List for <i>May 26, 2020 Hearing</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,, <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09., <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga, <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel ( <i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> ), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel ( <i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i> , <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time), <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 20, 608</i> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020 for Mercer</i> (, <u>609</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's At). (Annable, Zachery)
05/22/2020	<u>655</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON MAY 26, 2020 AT 9:30 a.m. (Ellison, T.)
05/22/2020	<u>656</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>609</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's At). (Annable, Zachery)
05/22/2020	<u>657</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time)). (Annable, Zachery)
05/22/2020	<u>658</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/23/2020	

	<u>659</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel ( <i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i> ). (Annable, Zachery)
05/25/2020	<u>660</u> Amended Notice ( <i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>658</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.). (Annable, Zachery)
05/26/2020	<u>661</u> Order granting application for compensation (related document # <u>569</u> ) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>662</u> Order granting application for compensation (related document # <u>570</u> ) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>663</u> Order granting application for compensation (related document # <u>607</u> ) granting for Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, fees awarded: \$4,834,021.00, expenses awarded: \$118,198.81 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>664</u> Order granting application for compensation (related document # <u>608</u> ) granting for Mercer (US) Inc., fees awarded: \$113,804.64, expenses awarded: \$2,151.69 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>665</u> Amended Order granting application for compensation (related document # <u>570</u> ) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>666</u> Amended Order granting application for compensation (related document # <u>569</u> ) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>667</u> Order granting application for compensation (related document # <u>609</u> ) granting for Hayward & Associates PLLC, fees awarded: \$168,405.00, expenses awarded: \$7,333.29 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>668</u> Order granting <u>606</u> Motion to extend or limit the exclusivity period. (Re: related document(s) Chapter 11 Plan due by 7/13/2020, Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>669</u> Order granting application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Other Professional (related document # <u>605</u> ) Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>670</u> Order granting application for compensation (related document # <u>602</u> ) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$387,672.08, expenses awarded: \$10,455.04 Entered on 5/26/2020. (Ecker, C.)
05/26/2020	<u>672</u> Hearing held on 5/26/2020. (RE: related document(s) <u>602</u> First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020 for Foley Gardere, Foley & Lardner LLP, Special Counsel,) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura

	for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 80% of fees and 100% of expenses allowed on an interim basis with all rights of all parties reserved. Counsel to upload order.) (Edmond, Michael) (Entered: 05/27/2020)
05/26/2020	<u>673</u> Hearing held on 5/26/2020. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date), filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Application granted. Counsel to upload order.) (Edmond, Michael) (Entered: 05/27/2020)
05/26/2020	<u>674</u> Hearing held on 5/26/2020. (RE: related document(s) <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 30 day extension. Counsel to upload order. (Edmond, Michael) (Entered: 05/27/2020)
05/27/2020	<u>671</u> Request for transcript (ruling only) regarding a hearing held on 5/26/2020. The requested turn-around time is daily (Jeng, Hawaii)
05/28/2020	<u>675</u> Application for compensation <i>Sixth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2020 to 4/30/2020, Fee: \$489,957.84, Expenses: \$6,702.95. Filed by Attorney Juliana Hoffman Objections due by 6/18/2020. (Hoffman, Juliana)
05/28/2020	<u>676</u> Transcript regarding Hearing Held 05/26/2020 (7 pgs.) RE: Fee Applications, Applications to Employ Nunc Pro Tunc, Motion to Extend Exclusivity Period (Excerpt: 10:00–10:06 a.m. Only). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/26/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972–786–3063. (RE: related document(s) <u>672</u> Hearing held on 5/26/2020. (RE: related document(s) <u>602</u> First Interim Application for Compensation and for Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020 for Foley Gardere, Foley & Lardner LLP, Special Counsel,) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 80% of fees and 100% of expenses allowed on an interim basis with all rights of all parties reserved. Counsel to upload order.), <u>673</u> Hearing held on 5/26/2020. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date), filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Application granted. Counsel to

	upload order.), 674 Hearing held on 5/26/2020. (RE: related document(s) <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) (Appearances (all video or telephonic): J. Pomeranz and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis; H. ONiel, special counsel for Debtor; A. Attarwala for UBS; M. Hankin and T. Mascherin for Redeemer Committee; R. Matsumura for HCLOF; L. Lambert for UST. Nonevidentiary hearing. Agreed resolution accepted; 30 day extension. Counsel to upload order.). Transcript to be made available to the public on 08/26/2020. (Rehling, Kathy)
05/28/2020	<u>677</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>663</u> Order granting application for compensation (related document <u>607</u> ) granting for Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, fees awarded: \$4,834,021.00, expenses awarded: \$118,198.81 Entered on 5/26/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 05/28/2020. (Admin.)
06/01/2020	<u>678</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
06/01/2020	<u>679</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2020 through April 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A—DSI Staffing Report for April 2020) (Annable, Zachery)
06/01/2020	<u>680</u> Certificate of service re: 1) <i>Third Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> ; 2) <i>Summary Sheet and Sixth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from April 1, 2020 to and Including April 30, 2020</i> ; and 3) <i>Summary Sheet and Fifth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from March 1, 2020 to and Including March 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>638</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P., <u>639</u> Application for compensation <i>Sixth Monthly Application of Sidley Austin LLP for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2020 to 4/30/2020, Fee: \$438,619.32, Expenses: \$5,765.07. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 6/9/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>640</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 3/31/2020, Fee: \$477,538.20, Expenses: \$14,937.66. Filed by Attorney Juliana Hoffman Objections due by 6/9/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</i></i>
06/01/2020	<u>681</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Tuesday, May 26, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan</i> ; and 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing [Attached hereto as Exhibit B]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>658</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>660</u> Amended Notice ( <i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>658</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on May 26,</i>



	2020 at 9:30 a.m. (Central Time)) filed by Debtor Highland Capital Management, L.P..) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/01/2020	<u>682</u> Certificate of service re: <i>Cover Sheet and Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from April 1, 2020 Through April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>648</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtors for the Period From April 1, 2020 Through April 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$1,113,522.50, Expenses: \$3,437.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 6/11/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/01/2020	<u>683</u> Certificate of service re: <i>Documents Served on May 22, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>653</u> Declaration re: <i>(Second Supplemental Declaration of Bradley D. Sharp in Support of Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>74</u> Application to employ Development Specialists, Inc as Financial Advisor). filed by Debtor Highland Capital Management, L.P., <u>654</u> Witness and Exhibit List for May 26, 2020 <i>Hearing</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>569</u> Application for compensation <i>Sidley Austin LLP's First Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 2/29/2020, Fee: \$3,, <u>570</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/29/2019 to 2/29/2020, Fee: \$1,757,835.90, Expenses: \$8,781.09., <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Ga, <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel ( <i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> ), <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel ( <i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i> , <u>606</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>460</u> Order on motion to extend/shorten time), <u>607</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period From October 16, 2019 Through March 31, 20</i> , <u>608</u> Application for compensation <i>First Interim Application for Compensation and Reimbursement of Expenses of Mercer (US) Inc., as Compensation Consultant to the Debtor for the Period From November 15, 2019 Through February 29, 2020 for Mercer</i> (, <u>609</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's First Interim Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through March 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's At). filed by Debtor Highland Capital Management, L.P., <u>655</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON MAY 26, 2020 AT 9:30 a.m. (Ellison, T.), <u>658</u> Notice (Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/02/2020	<u>684</u> Clerk's correspondence requesting a notice of hearing from attorney for creditor. (RE: related document(s) <u>593</u> Motion for relief from stay Fee amount \$181, Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. Objections due by 5/1/2020. (Attachments: # 1 Exhibit 1 (Draft Motion Show Cause Motion) # 2 Exhibit 2 (DAF Complaint 1st case) # 3 Exhibit 3 (DAF Dismissal first case) # 4 Exhibit 4 (DAF Complaint 2nd case) # 5 Exhibit 5 (DAF Dismissal 2nd Case) # 6 Proposed Order)) Responses due by

	6/9/2020. (Ecker, C.)
06/02/2020	<u>685</u> Order approving fourth stipulation permitting Brown Rudnick LLP to file proof of claims after general bar date (RE: related document(s) <u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/2/2020 (Okafor, M.)
06/02/2020	<u>686</u> Debtor-in-possession monthly operating report for filing period April 1, 2020 to April 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
06/03/2020	<u>687</u> Response opposed to (related document(s): <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
06/03/2020	<u>688</u> Support/supplemental document( <i>Appendix A of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>687</u> Response). (Attachments: # <u>1</u> Exhibit 1—UBS v. Highland Capital Mgmt., L.P., 2010 NY Slip Op 1436 (N.Y. App. Div.) # <u>2</u> Exhibit 2—UBS v. Highland Capital Mgmt., L.P., 86 A.D.3d 469 (N.Y. App. Div. 2011) # <u>3</u> Exhibit 3—UBS v. Highland Capital Mgmt., L.P., 93 A.D.3d 489 (N.Y. App. Div. 2012) # <u>4</u> Exhibit 4—NY D.I. 411: March 13, 2017 Decision # <u>5</u> Exhibit 5—NY D.I. 494: Transcript of May 1, 2018 Telephonic Hearing # <u>6</u> Exhibit 6—NY D.I. 472: UBSs Pre-Trial Brief in Support of Bifurcation # <u>7</u> Exhibit 7—Shira A. Scheindlin, U.S.D.J. (Ret.), Why Not Arbitrate? Breaking the Backlog in State and Federal Courts, 263 N.Y. L.J. 94 (May 15, 2020) # <u>8</u> Exhibit 8—December 2, 2019 Email from the Debtors Pre-Petition Counsel to Counsel for UBS # <u>9</u> Exhibit 9—March 6, 2020 Email Chain Between the Debtors Bankruptcy Counsel and Counsel for UBS # <u>10</u> Exhibit 10—NY D.I. 320: UBSs Note of Issue Without Jury # <u>11</u> Exhibit 11—March 22, 2020 New York Administrative Order AO/78/20 # <u>12</u> Exhibit 12—May 26, 2020 Law360 Article (Excerpt Only)) (Annable, Zachery)
06/03/2020	<u>689</u> Motion to file document under seal.( <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of Appendix B of Exhibits to Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Protective Order Filed in State Court Litigation) (Annable, Zachery)
06/03/2020	<u>690</u> Objection to (related document(s): <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
06/03/2020	<u>691</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OBJECTION TO UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH STATE COURT ACTION</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit Exhibit A # <u>2</u> Exhibit Exhibit B # <u>3</u> Exhibit Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
06/03/2020	<u>692</u> Objection to (related document(s): <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) <i>Redacted Version (Pending Ruling on Motion to Seal at D.I. 691) of Redeemer Committee Objection to UBS Motion for Relief from the Automatic Stay to Proceed with State Court Action</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit Exhibit A (slip sheet, pending ruling on motion to seal) # <u>2</u> Exhibit Exhibit B slip sheet (pending ruling on motion to seal) # <u>3</u> Exhibit Exhibit C slip sheet (pending ruling on motion to seal) # <u>4</u> Exhibit Exhibit D slip sheet (pending ruling on motion to seal) # <u>5</u> Exhibit Exhibit E # <u>6</u> Exhibit Exhibit F # <u>7</u> Exhibit Exhibit G # <u>8</u> Exhibit

	Exhibit H slip sheet (pending ruling on motion to seal) # <u>9</u> Exhibit Exhibit I slip sheet (pending ruling on motion to seal) # <u>10</u> Exhibit Exhibit J # <u>11</u> Exhibit Exhibit L # <u>12</u> Exhibit Exhibit M # <u>13</u> Exhibit Exhibit N) (Platt, Mark)
06/03/2020	<u>693</u> Support/supplemental document <i>Exhibit K</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>692</u> Objection). (Platt, Mark)
06/03/2020	<u>694</u> Joinder by filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>692</u> Objection). (Shaw, Brian)
06/04/2020	<u>695</u> Motion to appear pro hac vice for Robert J. Feinstein. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
06/04/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27814231, amount \$ 100.00 (re: Doc# <u>695</u> ). (U.S. Treasury)
06/04/2020	<u>696</u> Amended Motion to file document under seal. <i>AMENDED MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OBJECTION TO UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH STATE COURT ACTION</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit Exhibit A # <u>2</u> Exhibit Exhibit B # <u>3</u> Exhibit Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
06/04/2020	<u>697</u> Certificate of service re: <i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>660</u> Amended Notice ( <i>Amended Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>658</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on May 26, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P..) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/04/2020	<u>698</u> Certificate of service re: <i>Documents Served on May 26, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>661</u> Order granting application for compensation (related document <u>569</u> ) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.), <u>662</u> Order granting application for compensation (related document <u>570</u> ) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.), <u>663</u> Order granting application for compensation (related document <u>607</u> ) granting for Pachulski Stang Ziehl & Jones LLP, as Counsel for the Debtor and Debtor in Possession, fees awarded: \$4,834,021.00, expenses awarded: \$118,198.81 Entered on 5/26/2020. (Ecker, C.), <u>664</u> Order granting application for compensation (related document <u>608</u> ) granting for Mercer (US) Inc., fees awarded: \$113,804.64, expenses awarded: \$2,151.69 Entered on 5/26/2020. (Ecker, C.), <u>665</u> Amended Order granting application for compensation (related document <u>570</u> ) granting for FTI Consulting, Inc., fees awarded: \$1,757,835.90, expenses awarded: \$8,781.09 Entered on 5/26/2020. (Ecker, C.), <u>666</u> Amended Order granting application for compensation (related document <u>569</u> ) granting for Sidley Austin, attorney for Official Committee of Unsecured Creditors, fees awarded: \$3,154,959.45, expenses awarded: \$56,254.47 Entered on 5/26/2020. (Ecker, C.), <u>667</u> Order granting application for compensation (related document <u>609</u> ) granting for Hayward & Associates PLLC, fees awarded: \$168,405.00, expenses awarded: \$7,333.29 Entered on 5/26/2020. (Ecker, C.), <u>668</u> Order granting <u>606</u> Motion to extend or limit the exclusivity period. (Re: related document(s) Chapter 11 Plan due by 7/13/2020, Entered on 5/26/2020. (Ecker, C.), <u>669</u> Order granting application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Other Professional (related document <u>605</u> ) Entered on 5/26/2020. (Ecker, C.), <u>670</u> Order granting application for compensation (related document <u>602</u> ) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$387,672.08, expenses awarded: \$10,455.04 Entered on

	5/26/2020. (Ecker, C.)). (Kass, Albert)
06/04/2020	<u>699</u> Certificate of service re: <i>Summary Sheet and Sixth Monthly Application of FTI Consulting for Allowance of Compensation and Reimbursement of Expenses for the Period from April 1, 2020 to and Including April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>675</u> Application for compensation <i>Sixth Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2020 to 4/30/2020, Fee: \$489,957.84, Expenses: \$6,702.95.</i> Filed by Attorney Juliana Hoffman Objections due by 6/18/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
06/04/2020	<u>700</u> Motion to redact/restrict Restrict From Public View (related document(s): <u>692</u> ) (Fee Amount \$25) Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Proposed Order) (Platt, Mark)
06/04/2020	Receipt of filing fee for Motion to Redact/Restrict From Public View(19-34054-sgj11) [motion,mredact] ( 25.00). Receipt number 27815698, amount \$ 25.00 (re: Doc# <u>700</u> ). (U.S. Treasury)
06/04/2020	<u>701</u> Objection to (related document(s): <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch)Redacted Version of Redeemer Committee Objection to UBS Motion for Relief from the Automatic Stay to Proceed with State Court Action filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit Exhibit A # <u>2</u> Exhibit Exhibit B # <u>3</u> Exhibit Exhibit C # <u>4</u> Exhibit Exhibit D # <u>5</u> Exhibit Exhibit E # <u>6</u> Exhibit Exhibit F # <u>7</u> Exhibit Exhibit G # <u>8</u> Exhibit Exhibit H slip sheet # <u>9</u> Exhibit Exhibit I slip sheet # <u>10</u> Exhibit Exhibit J # <u>11</u> Exhibit Exhibit K # <u>12</u> Exhibit Exhibit L # <u>13</u> Exhibit Exhibit M # <u>14</u> Exhibit Exhibit N) (Platt, Mark)
06/04/2020	<u>702</u> Notice of Appearance and Request for Notice by Thomas M. Melsheimer filed by Creditor Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent. (Melsheimer, Thomas)
06/04/2020	<u>703</u> Motion to appear pro hac vice for David Neier. Fee Amount \$100 Filed by Creditor Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (Melsheimer, Thomas)
06/04/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27816362, amount \$ 100.00 (re: Doc# <u>703</u> ). (U.S. Treasury)
06/05/2020	<u>704</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
06/05/2020	<u>705</u> Order granting motion to appear pro hac vice adding David Neier for Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (related document # <u>703</u> ) Entered on 6/5/2020. (Okafor, M.)
06/05/2020	<u>706</u> Order granting motion to appear pro hac vice adding Robert J. Feinstein for Highland Capital Management, L.P. (related document # <u>695</u> ) Entered on 6/5/2020. (Okafor, M.)



06/05/2020	<p><u>707</u> Certificate of service re: 1) <i>Fourth Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i>; and 2) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2020 Through April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>678</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P., <u>679</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2020 through April 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Attachments: # 1 Exhibit A—DSI Staffing Report for April 2020) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/05/2020	<p><u>708</u> Certificate of service re: <i>Order Approving Fourth Stipulation Permitting Brown Rudnick LLP to File Proofs of Claim After the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>685</u> Order approving fourth stipulation permitting Brown Rudnick LLP to file proof of claims after general bar date (RE: related document(s)<u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/2/2020 (Okafor, M.)). (Kass, Albert)</p>
06/05/2020	<p><u>709</u> Certificate of service re: 1) <i>Debtor's Objection to UBS's Motion for Relief from the Automatic Stay to Proceed with State Court Action</i>; 2) <i>Appendix A of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i>; and 3) <i>Debtor's Motion for Entry of an Order Authorizing Filing Under Seal of Appendix B of Exhibits to Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>687</u> Response opposed to (related document(s): <u>644</u> Motion for relief from stay (<i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i>) Fee amount \$181, filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>688</u> Support/supplemental document(<i>Appendix A of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>687</u> Response). (Attachments: # 1 Exhibit 1—UBS v. Highland Capital Mgmt., L.P., 2010 NY Slip Op 1436 (N.Y. App. Div. # 2 Exhibit 2—UBS v. Highland Capital Mgmt., L.P., 86 A.D.3d 469 (N.Y. App. Div. 2011) # 3 Exhibit 3—UBS v. Highland Capital Mgmt., L.P., 93 A.D.3d 489 (N.Y. App. Div. 2012) # 4 Exhibit 4—NY D.I. 411: March 13, 2017 Decision # 5 Exhibit 5—NY D.I. 494: Transcript of May 1, 2018 Telephonic Hearing # 6 Exhibit 6—NY D.I. 472: UBSs Pre-Trial Brief in Support of Bifurcation # 7 Exhibit 7—Shira A. Scheindlin, U.S.D.J. (Ret.), Why Not Arbitrate? Breaking the Backlog in State and Federal Courts, 263 N.Y. L.J. 94 (May 15, 2020) # 8 Exhibit 8—December 2, 2019 Email from the Debtors Pre-Petition Counsel to Counsel for UBS # 9 Exhibit 9—March 6, 2020 Email Chain Between the Debtors Bankruptcy Counsel and Counsel for UBS # 10 Exhibit 10—NY D.I. 320: UBSs Note of Issue Without Jury # 11 Exhibit 11—March 22, 2020 New York Administrative Order AO/78/20 # 12 Exhibit 12—May 26, 2020 Law360 Article (Excerpt Only)) filed by Debtor Highland Capital Management, L.P., <u>689</u> Motion to file document under seal.(<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of Appendix B of Exhibits to Debtor's Objection to UBS's Motion for Relief from the Automatic Stay</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Protective Order Filed in State Court Litigation) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/07/2020	<p><u>710</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>706</u> Order granting motion to appear pro hac vice adding Robert J. Feinstein for Highland Capital Management, L.P. (related document <u>695</u>) Entered on 6/5/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 06/07/2020. (Admin.)</p>

06/08/2020	<u>711</u> Order granting motion to seal documents (related document # <u>696</u> ) Entered on 6/8/2020. (Okafor, M.)
06/08/2020	<u>712</u> Certificate of No Objection filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>593</u> Motion for relief from stay Fee amount \$181,). (Shaw, Brian)
06/08/2020	<u>713</u> Order granting Motion to Redact (Related Doc # <u>700</u> ) Entered on 6/8/2020. (Okafor, M.)
06/08/2020	<b>714 SEALED document regarding: Redeemer Committee's Objection to UBS's Motion for Relief From The Automatic Stay (unredacted version) per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>715 SEALED document regarding: Exhibit A, Original Synthetic Warehouse Agreement per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>716 SEALED document regarding: Exhibit B, Original Engagement Ltr. per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>717 SEALED document regarding: Exhibit C, Original Cash Warehouse Agreement per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>718 SEALED document regarding: Exhibit D, Expert Report of Louis G. Dudney per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>719 SEALED document regarding: Exhibit E, 3/20/2009 Termination, Settlement, and Release Agreement per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>720 SEALED document regarding: Exhibit H, UBS and Crusader Fund Settlement Agreement per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<b>721 SEALED document regarding: Exhibit I, UBS and Credit Strategies Fund Settlement Agreement per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>711</u> Order on motion to seal). (Platt, Mark)
06/08/2020	<u>722</u> Order granting motion to seal documents (related document # <u>689</u> ) Entered on 6/8/2020. (Okafor, M.)
06/08/2020	<b>723 SEALED document regarding: Appendix B of Exhibits in Support of Debtor's Objection to UBS's Motion for Relief from the Automatic Stay per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>722</u> Order on motion to seal). (Annable, Zachery)
06/08/2020	<u>724</u> Certificate of service re: <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>704</u> <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE:

	related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/10/2020	<u>725</u> Motion to appear pro hac vice for Sarah Tomkowiak. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
06/10/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27830926, amount \$ 100.00 (re: Doc# <u>725</u> ). (U.S. Treasury)
06/10/2020	<u>726</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). (Annable, Zachery)
06/10/2020	<u>727</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>639</u> Application for compensation <i>Sixth Monthly Application of Sidley Austin LLP for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2020 to 4/30/2020, Fee: \$438,619.). (Hoffman, Juliana)
06/10/2020	<u>728</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>640</u> Application for compensation <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 3/31/2020, Fee: \$477,538.20, Expenses: \$14,937.66.). (Hoffman, Juliana)
06/10/2020	<u>729</u> Notice of Subpoena of Highland Capital Management, L.P. filed by Creditor CLO Holdco, Ltd.. (Kane, John)
06/11/2020	<u>730</u> Motion to appear pro hac vice for Alan J. Kornfeld. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
06/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27834758, amount \$ 100.00 (re: Doc# <u>730</u> ). (U.S. Treasury)
06/11/2020	<u>731</u> Order granting motion to appear pro hac vice adding Sarah A. Tomkowiak for UBS AG London Branch and UBS Securities LLC (related document # <u>725</u> ) Entered on 6/11/2020. (Okafor, M.)
06/11/2020	<u>732</u> Order approving fifth stipulation permitting Brown Rudnick LLP to file proofs of claim after the general bar ate (RE: related document(s) <u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/11/2020 (Okafor, M.) Modified text on 6/11/2020 (Okafor, M.).
06/11/2020	<u>733</u> Motion for leave to File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action (related document(s) <u>687</u> Response, <u>690</u> Objection, <u>692</u> Objection, <u>694</u> Joinder, <u>701</u> Objection) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Reply # <u>3</u> Exhibit 1 # <u>4</u> Exhibit 2 # <u>5</u> Exhibit 3 # <u>6</u> Exhibit 4 # <u>7</u> Exhibit 5 # <u>8</u> Exhibit 6 # <u>9</u> Exhibit 7 # <u>10</u> Exhibit 8 # <u>11</u> Exhibit 9 # <u>12</u> Exhibit 10 # <u>13</u> Exhibit 11 # <u>14</u> Exhibit 12 # <u>15</u> Exhibit 13 # <u>16</u> Exhibit

	14) (Sosland, Martin)
06/11/2020	<u>734</u> INCORRECT EVENT USED: See # <u>746</u> for correction. Motion for leave to <i>File Documents Under Seal with UBS's Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>733</u> Motion for leave) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – State Court Protective Stipulation) (Sosland, Martin) Modified on 6/15/2020 (Ecker, C.).
06/11/2020	<u>746</u> Motion to file document under seal. Filed by Interested Parties UBS AG London Branch , UBS Securities LLC (Ecker, C.) (Entered: 06/15/2020)
06/12/2020	<u>735</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON JUNE 15, 2020 AT 1:30 p.m. (RE: related document(s) <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K)). (Ellison, T.)
06/12/2020	<u>736</u> Order granting motion to appear pro hac vice adding Alan J. Kornfeld for Highland Capital Management, L.P. (related document # <u>730</u> ) Entered on 6/12/2020. (Okafor, M.)
06/12/2020	<u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
06/12/2020	<u>738</u> Certificate of No Objection Regarding Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>648</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtors for the Period From April 1, 2020 Through April 30, 2020</i> for Jeffrey Nathan). (Annable, Zachery)
06/12/2020	<u>739</u> Witness and Exhibit List ( <i>Debtor's Witness and Exhibit List for June 15, 2020 Hearing on UBS's Motion for Relief from the Automatic Stay</i> ) filed by Debtor Highland Capital Management, L.P. (Related document(s) <u>644</u> UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch. MODIFIED to correct linkage on 6/15/2020 (Ecker, C.).
06/12/2020	<u>740</u> Witness and Exhibit List <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND WITNESS AND EXHIBIT LIST FOR JUNE 15, 2020 HEARING ON UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Related document(s) <u>644</u> UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch. MODIFIED to correct linkage on 6/15/2020 (Ecker, C.).
06/12/2020	<u>741</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>737</u> , (Annable, Zachery)
06/12/2020	<u>742</u> Witness and Exhibit List <i>for June 15, 2020 Hearing</i> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court</i>



	<i>Action</i> ) Fee amount \$181.). (Sosland, Martin)
06/12/2020	<u>743</u> Amended Witness and Exhibit List <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND FIRST AMENDED WITNESS AND EXHIBIT LIST FOR JUNE 15, 2020 HEARING ON UBS MOTION FOR RELIEF FROM THE AUTOMATIC STAY</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>740</u> List (witness/exhibit/generic)). (Platt, Mark)
06/13/2020	<u>744</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>731</u> Order granting motion to appear pro hac vice adding Sarah A. Tomkowiak for UBS AG London Branch and UBS Securities LLC (related document <u>725</u> ) Entered on 6/11/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 06/13/2020. (Admin.)
06/14/2020	<u>745</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>736</u> Order granting motion to appear pro hac vice adding Alan J. Kornfeld for Highland Capital Management, L.P. (related document <u>730</u> ) Entered on 6/12/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 06/14/2020. (Admin.)
06/15/2020	<u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
06/15/2020	<u>748</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>747</u> , (Annable, Zachery)
06/15/2020	<u>754</u> Hearing held on 6/15/2020. (RE: related document(s) <u>644</u> (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action), filed by Interested Parties UBS AG London Branch, UBS Securities LLC.,) (Appearances (all via WebEx): M. Sosland, A. Clubok, and S. Tomkowiak for UBS; J. Pomerantz, R. Feinstein, G. Demo, A. Kornfeld, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; B. Shaw and R. Patel for Acis; M. Rosenthal for Alvarez & Marsal. Evidentiary hearing. Motion denied. Debtors counsel to upload order.) (Edmond, Michael) (Entered: 06/17/2020)
06/15/2020	<u>770</u> Court admitted exhibits date of hearing June 15, 2020 (RE: related document(s) <u>644</u> Motion for relief from stay (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action), filed by Interested Parties UBS AG London Branch, UBS Securities LLC., (COURT ADMITTED ALL EXHIBIT'S TO ALL THE ATTACHED OBJECTOR'S OBJECTION ALL EXCEPT FOR EXHIBIT #D (EXPERT REPORT OF LOUIS G. DUDLEY; THAT IS FILED UNDER SEAL); ON THE REDEEMER COMMITTEE OBJECTION; THE FOLLOWING EXHIBIT'S ATTACHED TO THE MOTION OF UBS'S MOTION TO LIFT STAY ALL ADMITTED; # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K; ALSO PLEASE SEE WITNESS AND EXHIBIT LIST OF DEBTOR; CREDITOR UBS AND REDEEMER COMMITTEE) (Edmond, Michael) (Entered: 06/23/2020)
06/16/2020	<u>749</u> ENTER AN ERROR; NO PDF ATTACHED: Request for transcript regarding a hearing held on 6/15/2020. The requested turn-around time is daily (Edmond, Michael) Modified on 6/16/2020 (Edmond, Michael).

06/16/2020	<u>750</u> Request for transcript regarding a hearing held on 6/15/2020. The requested turn-around time is daily. (Edmond, Michael)
06/16/2020	<u>751</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 4/30/2020, Fee: \$32,602.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 7/7/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
06/16/2020	<u>752</u> Notice of hearing( <i>Notice of August 6, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm (Annable, Zachery)
06/16/2020	<u>753</u> Notice of hearing ( <i>Notice of July 14, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)
06/17/2020	<u>755</u> Transcript regarding Hearing Held 06/15/2020 (127 pages) RE: Motion for Relief from the Automatic Stay. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>754</u> Hearing held on 6/15/2020. (RE: related document(s) <u>644</u> (UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action), filed by Interested Parties UBS AG London Branch, UBS Securities LLC.,) (Appearances (all via WebEx): M. Sosland, A. Clubok, and S. Tomkowiak for UBS; J. Pomerantz, R. Feinstein, G. Demo, A. Kornfeld, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; B. Shaw and R. Patel for Acis; M. Rosenthal for Alvarez & Marsal. Evidentiary hearing. Motion denied. Debtors counsel to upload order.)). Transcript to be made available to the public on 09/15/2020. (Rehling, Kathy)
06/17/2020	<u>756</u> Certificate of service re: <i>1) WebEx Meeting Invitation to participate electronically in the hearing on Monday, June 15, 2020 at 1:30 p.m. Central Time before the Honorable Stacey G. Jernigan; and 2) Instructions for any counsel and parties who wish to participate in the Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>735</u> COURT'S NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON JUNE 15, 2020 AT 1:30 p.m. (RE: related document(s) <u>644</u> Motion for relief from stay ( <i>UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action</i> ) Fee amount \$181, Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 6/3/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K)). (Ellison, T.)). (Kass, Albert)
06/17/2020	<u>757</u> Certificate of service re: <i>Fifth Stipulation by and Between the Debtor and Brown Rudnick LLP Extending the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>726</u> Stipulation by Highland Capital Management, L.P. and Brown Rudnick LLP. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>488</u> Order on motion for leave). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/17/2020	<u>758</u> Certificate of service re: <i>1) Motion for Admission Pro Hac Vice of Alan J. Kornfeld to Represent Highland Capital Management, L.P.; and 2) Order Approving Fifth Stipulation Permitting Brown Rudnick LLP to File Proofs of Claim After the General Bar Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>730</u> Motion to appear pro hac vice for Alan J. Kornfeld. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>732</u> Order approving fifth stipulation permitting Brown Rudnick LLP to file proofs of claim after the

	<p>general bar ate (RE: related document(s)<u>638</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 6/11/2020 (Okafor, M.) Modified text on 6/11/2020 (Okafor, M.). (Kass, Albert)</p>
06/17/2020	<p><u>759</u> Certificate of service re: <i>Documents Served on June 12, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>736</u> Order granting motion to appear pro hac vice adding Alan J. Kornfeld for Highland Capital Management, L.P. (related document <u>730</u>) Entered on 6/12/2020. (Okafor, M.), <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>739</u> Witness and Exhibit List (<i>Debtor's Witness and Exhibit List for June 15, 2020 Hearing on UBS's Motion for Relief from the Automatic Stay</i>) filed by Debtor Highland Capital Management, L.P. (Related document(s) <u>644</u> UBS's Motion for Relief From the Automatic Stay to Proceed With State Court Action) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch. MODIFIED to correct linkage on 6/15/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>741</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>737</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/17/2020	<p><u>760</u> Certificate of service re: <i>1) Debtor's Motion for Entry of an Order Further Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure; and 2) Notice of Hearing Regarding Debtor's Motion for Entry of an Order Further Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure; to be Held on July 8, 2020 at 1:30 p.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)<u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>748</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)<u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 7/6/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 7/8/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>747</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/17/2020	<p><u>761</u> Certificate of service re: <i>1) Cover Sheet and Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 Through April 30, 2020; 2) Notice of August 6, 2020 Omnibus Hearing Date; and 3) Notice of July 14, 2020 Omnibus Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>751</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 4/1/2020 to 4/30/2020, Fee: \$32,602.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 7/7/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <u>752</u> Notice of hearing (<i>Notice of August 6, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P., <u>753</u> Notice of hearing (<i>Notice of July 14, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>

06/18/2020	<u>762</u> Application for compensation <i>Seventh Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 5/1/2020 to 5/31/2020, Fee: \$27,822.00, Expenses: \$489.80. Filed by Attorney Holland N. O'Neil Objections due by 7/9/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
06/18/2020	<u>763</u> Agreed Order granting application to employ Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (related document # <u>604</u> ) Entered on 6/18/2020. (Bradden, T.)
06/18/2020	<u>764</u> Order granting motion for relief from stay by Acis Capital Management GP, LLC , Acis Capital Management, L.P. (related document # <u>593</u> ) Entered on 6/18/2020. (Bradden, T.)
06/19/2020	<u>765</u> Order denying motion for relief from stay by Interested Parties UBS AG London Branch , UBS Securities LLC (related document # <u>644</u> ) Entered on 6/19/2020. (Okafor, M.)
06/20/2020	<u>766</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>764</u> Order granting motion for relief from stay by Acis Capital Management GP, LLC , Acis Capital Management, L.P. (related document <u>593</u> ) Entered on 6/18/2020. (Bradden, T.)) No. of Notices: 1. Notice Date 06/20/2020. (Admin.) (Entered: 06/21/2020)
06/22/2020	<u>767</u> Application for compensation <i>Sidley Austin LLP's Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2020 to 5/31/2020, Fee: \$343,624.68, Expenses: \$2,758.75. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/13/2020. (Hoffman, Juliana)
06/22/2020	<u>768</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>675</u> Application for compensation <i>Sixth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2020 to 4/30/2020, Fee: \$489,957.84, Expenses: \$6,702.95.). (Hoffman, Juliana)
06/22/2020	<u>769</u> Certificate of service re: 1) <i>Cover Sheet and Seventh Monthly Application for Compensation and Reimbursement of Expenses of Foley Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 Through May 31, 2020</i> ; and 2) <i>Agreed Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>762</u> Application for compensation <i>Seventh Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 5/1/2020 to 5/31/2020, Fee: \$27,822.00, Expenses: \$489.80. Filed by Attorney Holland N. O'Neil Objections due by 7/9/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>763</u> Agreed Order granting application to employ Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (related document <u>604</u> ) Entered on 6/18/2020. (Bradden, T.)). (Kass, Albert)
06/23/2020	<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020. (Annable, Zachery)
06/23/2020	<u>772</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 8/6/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , (Annable, Zachery)



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

	<p>employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>775</u> Application to employ Development Specialists, Inc. as Other Professional <i>Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>776</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>774</u> Application to employ James P. Seery, Jr. as Other Professional <i>Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>774</u>, filed by Debtor Highland Capital Management, L.P., <u>777</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>775</u> Application to employ Development Specialists, Inc. as Other Professional <i>Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020</i> Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>775</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/25/2020	<u>780</u> Notice of Subpoena of David Klos filed by Creditor CLO Holdco, Ltd.. (Kane, John)
06/26/2020	<u>781</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2020 through May 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)
06/26/2020	<u>782</u> Witness and Exhibit List filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [ <i>Motion for Remittance of Funds Held in Registry of Court</i> ]). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 1-A # <u>3</u> Exhibit 1-B # <u>4</u> Exhibit 1-C # <u>5</u> Exhibit 1-D # <u>6</u> Exhibit 1-E # <u>7</u> Exhibit 1-F # <u>8</u> Exhibit 1-G # <u>9</u> Exhibit 1-H # <u>10</u> Exhibit 1-I # <u>11</u> Exhibit 2 # <u>12</u> Exhibit 3 # <u>13</u> Exhibit 4 # <u>14</u> Exhibit 5 # <u>15</u> Exhibit 6 # <u>16</u> Exhibit 7 # <u>17</u> Exhibit 8 # <u>18</u> Exhibit 9 # <u>19</u> Exhibit 10 # <u>20</u> Exhibit 11 # <u>21</u> Exhibit 12 # <u>22</u> Exhibit 13 # <u>23</u> Exhibit 14 # <u>24</u> Exhibit 15 # <u>25</u> Exhibit 16) (Kane, John)
06/26/2020	<u>783</u> <b>SEALED document regarding: Exhibit 11 – AROF MUFG Bank Statement June 2018 Highland PEO-032620 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>784</u> <b>SEALED document regarding: Exhibit 12 – GG and HCM Purchase and Sale Agreement Loan Fund dated December 28, 2016 Highly Confidential per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>785</u> <b>SEALED document regarding: Exhibit 13 – GG and HCM Amendment to Purchase and Sale Agreement Loan Fund dated December 28, 2016 Highly Confidential per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<u>786</u> <b>SEALED document regarding: Exhibit 14 – Exercise of Discretion by Trustee The Get Good Nonexempt Trust (Fully Executed) dated December 28, 2016 Highly Confidential per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)

06/26/2020	<b>787 SEALED document regarding: Exhibit 15 – Dynamic Income CLO Holdco Side Letter (\$2M Subscription) dated January 10, 2017 Highly Confidential per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/26/2020	<b>788 SEALED document regarding: Exhibit 16 – Highland Capital Management, L.P. December 31, 2016 Final Opinion per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
06/27/2020	<u>789</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [ <i>Motion for Remittance of Funds Held in Registry of Court</i> ]). (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit) (Hoffman, Juliana)
06/29/2020	<u>790</u> COURTS NOTICE/VIDEO CONFERENCE INFORMATION FOR HEARING ON June 30, 2020 at 09:30 AM; (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [ <i>Motion for Remittance of Funds Held in Registry of Court</i> ] filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Proposed Order # <u>11</u> Service List)). (Edmond, Michael)
06/30/2020	<u>791</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>602</u> Application for compensation <i>First Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through March 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 3/31/2020, Fee: \$484,590.10, Expenses: \$10,455.04. Filed by Attorney Holland N. O'Neil Objections due by 5/19/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order Exhibit C – Proposed Order) (O'Neil, Holland)) Responses due by 7/14/2020. (Ecker, C.)
06/30/2020	<u>792</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel ( <i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Declaration of Timothy Silva # <u>2</u> Exhibit B—Proposed Order)) Responses due by 7/14/2020. (Ecker, C.)
06/30/2020	<u>793</u> Hearing held on 6/30/2020. (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [ <i>Motion for Remittance of Funds Held in Registry of Court</i> ] filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Proposed Order # <u>11</u> Service List). (Appearances: J. Kane and B. Clark for Movant; J. Pomeranz, J. Morris, G. Demo, and Z. Annabel for Debtor; M. Clemente for Unsecured Creditors Committee; M. Platt and M. Hankin for Redeemers Committee; R. Patel for Acis; A. Anderson and J. Bentley for certain CLO Issuers. Evidentiary hearing. Motion denied, but court ordered that funds in registry of court will be disbursed to CLO Holdco, Ltd. in 90 days unless an adversary proceeding has been filed against it and injunctive/equitable relief is sought and granted in such adversary proceeding, requiring further holding of the funds in the registry of the court (subject to requests/agreements for extension of this 90-day deadline). Also, court registry will be receiving further funds that Debtor is due to disburse to CLO Holdco and Highland Capital Management Services, Inc. imminently (separate order is to be submitted by Debtors counsel; UCC counsel to submit an order on today's ruling on CLO Holdcos motion). (Edmond, Michael)
06/30/2020	<u>794</u> Court admitted exhibits date of hearing June 30, 2020 (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [ <i>Motion for Remittance of Funds Held in Registry of Court</i> ] filed by Creditor CLO Holdco, Ltd. (COURT ADMITTED MOVANT'S CLO HOLDCO, LTD., EXHIBITS #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13,

	#14, #15 & #16; ALSO ADMITTED DEFENDANT'S UNSECURED CREDITOR'S COMMITTEE EXHIBIT'S #1, #2 & #3) (Edmond, Michael)
06/30/2020	<u>795</u> Application for compensation ( <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$24877.50, Expenses: \$36.00. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A April 2020 Invoice) (Annable, Zachery)
07/01/2020	<u>796</u> Request for transcript regarding a hearing held on 6/30/2020. The requested turn-around time is daily. (Edmond, Michael)
07/01/2020	<u>797</u> Certificate of service re: <i>re: Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2020 Through May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>781</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2020 through May 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/01/2020	<u>798</u> Certificate of service re: <i>re: The Official Committee of Unsecured Creditors' Witness and Exhibit List for the June 30, 2020 Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>789</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [ <i>Motion for Remittance of Funds Held in Registry of Court</i> ]). (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
07/01/2020	<u>799</u> Certificate of service re: <i>Cover Sheet and Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 Through April 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>795</u> Application for compensation ( <i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 4/30/2020, Fee: \$24877.50, Expenses: \$36.00. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A April 2020 Invoice) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)
07/02/2020	<u>800</u> Debtor-in-possession monthly operating report for filing period May 1, 2020 to May 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
07/02/2020	<u>801</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
07/02/2020	<u>802</u> Transcript regarding Hearing Held 06/30/2020 (100 pages) RE: Motion for Remittance of Funds (590). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY



	<p>AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/30/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 793 Hearing held on 6/30/2020. (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry [Motion for Remittance of Funds Held in Registry of Court] filed by Creditor CLO Holdco, Ltd. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Proposed Order # 11 Service List). (Appearances: J. Kane and B. Clark for Movant; J. Pomeranz, J. Morris, G. Demo, and Z. Annabel for Debtor; M. Clemente for Unsecured Creditors Committee; M. Platt and M. Hankin for Redeemers Committee; R. Patel for Acis; A. Anderson and J. Bentley for certain CLO Issuers. Evidentiary hearing. Motion denied, but court ordered that funds in registry of court will be disbursed to CLO Holdco, Ltd. in 90 days unless an adversary proceeding has been filed against it and injunctive/equitable relief is sought and granted in such adversary proceeding, requiring further holding of the funds in the registry of the court (subject to requests/agreements for extension of this 90-day deadline). Also, court registry will be receiving further funds that Debtor is due to disburse to CLO Holdco and Highland Capital Management Services, Inc. imminently (separate order is to be submitted by Debtors counsel; UCC counsel to submit an order on today's ruling on CLO Holdcos motion).). Transcript to be made available to the public on 09/30/2020. (Rehling, Kathy)</p>
07/02/2020	<p><u>803</u> BNC certificate of mailing. (RE: related document(s) <u>792</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel Nunc Pro Tunc to the Petition Date</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Declaration of Timothy Silva # 2 Exhibit B—Proposed Order)) Responses due by 7/14/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/02/2020. (Admin.)</p>
07/03/2020	<p><u>804</u> Response unopposed to (related document(s): <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)</p>
07/06/2020	<p><u>805</u> Notice of hearing (<i>Notice of September 10, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm (Annable, Zachery)</p>
07/07/2020	<p><u>806</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Tuesday, May 26, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan</i>; 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i>; and 3) <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>801</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/07/2020	

	<p><u>807</u> Certificate of service re: <i>Statement of the Official Committee of Unsecured Creditors in Response to the Debtor's Third Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016-1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>804</u> Response unopposed to (related document(s): <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>668</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/08/2020	<p><u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020. (Montgomery, Paige)</p>
07/08/2020	<p><u>809</u> Certificate of service re: <i>Notice of September 10, 2020 Omnibus Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>805</u> Notice of hearing (<i>Notice of September 10, 2020 Omnibus Hearing Date</i>) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/08/2020	<p>812 Hearing held on 7/8/2020. (RE: related document(s)<u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.) (Edmond, Michael) (Entered: 07/09/2020)</p>
07/08/2020	<p>813 Hearing held on 7/8/2020. (RE: related document(s)<u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s)<u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.) (Edmond, Michael) (Entered: 07/09/2020)</p>
07/09/2020	<p><u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
07/09/2020	<p><u>811</u> Declaration re: (<i>Declaration of John A. Morris in Support of Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs.</i>) (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)</p>
07/09/2020	<p><u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel) Filed by Creditor Committee Official Committee of Unsecured Creditors (Hoffman, Juliana)</p>

07/09/2020	<u>815</u> Request for transcript regarding a hearing held on 7/8/2020. The requested turn-around time is hourly. (Edmond, Michael)
07/09/2020	<u>816</u> Order granting <u>747</u> Motion to extend time to within which it may remove actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>459</u> O) Entered on 7/9/2020. (Okafor, M.)
07/10/2020	<u>817</u> Transcript regarding Hearing Held 07/08/2020 (58 pages) RE: Motions to Extend Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/8/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 812 Hearing held on 7/8/2020. (RE: related document(s) <u>737</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>668</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted in part (30-day extension). Debtors counsel to upload order.), <u>813</u> Hearing held on 7/8/2020. (RE: related document(s) <u>747</u> Motion to extend time to (Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure) (RE: related document(s) <u>459</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, M. Hayward, and Z. Annabel for Debtor; M. Clemente for Official Unsecured Creditors Committee; T. Mascherin, M. Platt, and M. Hankin for Redeemer Committee; R. Patel, A. Chiarello, and B. Shaw for Acis; M. Lynn for J. Dondero; J. Bjork for UBS. Evidentiary hearing. Motion granted. Debtors counsel to upload order.)). Transcript to be made available to the public on 10/8/2020. (Rehling, Kathy)
07/10/2020	<u>818</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>751</u> Application for compensation <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i> for Foley Gardere,). (O'Neil, Holland)
07/10/2020	<u>819</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>762</u> Application for compensation <i>Seventh Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Foley Gardere). (O'Neil, Holland)
07/10/2020	<u>820</u> Order granting <u>737</u> Motion to extend or limit the exclusivity period. The Exclusive Filing Period is extended through and including August 12, 2020. Entered on 7/10/2020. (Okafor, M.)
07/10/2020	<u>821</u> Agreed order regarding deposit of funds into the registry of the Court. (Related Doc # <u>474</u> ) Entered on 7/10/2020. (Okafor, M.)
07/10/2020	<u>822</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Repr, <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restruct). (Annable, Zachery)

07/13/2020	<p><u>823</u> Certificate of service re: <i>Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/13/2020	<p><u>824</u> Certificate of service re: <i>Documents Served on July 9, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>811</u> Declaration re: (<i>Declaration of John A. Morris in Support of Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs.</i> (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P., <u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>816</u> Order granting <u>747</u> Motion to extend time to within which it may remove actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>459</u> O) Entered on 7/9/2020. (Okafor, M.)). (Kass, Albert)</p>
07/13/2020	<p><u>825</u> Order denying motion to reclaim funds from the registry (Related Doc # <u>590</u>) Entered on 7/13/2020. (Okafor, M.)</p>
07/13/2020	<p><u>826</u> Stipulation by Highland Capital Management, L.P. and The Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>808</u> Motion to compel Production by the Debtor. , <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs, <u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel) ). (Annable, Zachery)</i></p>
07/13/2020	<p><u>827</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management, L.P. and Acis Capital Management GP, LLC.. Filed by Interested Party James Dondero. (Assink, Bryan)</p>
07/13/2020	<p><u>828</u> Certificate of service re: 1) <i>Order Granting Debtor's Third Motion for Entry of an Order Pursuant to 11 U.S.C. § 1121(d) and Local Rule 3016–1 Further Extending the Exclusivity Periods for the Filing and Solicitation of Acceptances of a Chapter 11 Plan; 2) Agreed Order Regarding Deposit of Funds into the Registry of the Court; and 3) Debtors Witness and Exhibit List with Respect to (A) the Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to May 15, 2020, and (B) the Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363 (b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring Related Services Nunc Pro Tunc to March 15</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>820</u> Order granting <u>737</u> Motion to extend or limit the exclusivity period. The Exclusive Filing Period is extended through and including August 12, 2020. Entered on 7/10/2020. (Okafor, M.), <u>821</u> Agreed order regarding deposit of funds into the registry of the Court. (Related Doc <u>474</u>) Entered on 7/10/2020. (Okafor, M.), <u>822</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>774</u> Application to employ James P.</p>



	Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Repr, <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restruct). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/14/2020	<u>829</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>767</u> Application for compensation Sidley Austin LLP's Seventh Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2020 to 5/31/2020, Fee: \$34). (Hoffman, Juliana)
07/14/2020	<u>830</u> Application for compensation Seventh Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2020 to 5/31/2020, Fee: \$223,330.68, Expenses: \$1,874.65. Filed by Attorney Juliana Hoffman Objections due by 8/4/2020. (Hoffman, Juliana)
07/14/2020	<u>831</u> Application for compensation Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F) (Hoffman, Juliana)
07/14/2020	<u>832</u> Response opposed to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party James Dondero. (Assink, Bryan)
07/14/2020	<u>833</u> Request for transcript regarding a hearing held on 7/14/2020. The requested turn-around time is daily. (Edmond, Michael)
07/14/2020	<u>836</u> Court admitted exhibits date of hearing July 14, 2020 (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P., And <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020 filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED EXHIBIT'S #1, #2, #3, #4, #5, #6 & #7) (Edmond, Michael) (Entered: 07/15/2020)
07/14/2020	<u>862</u> Hearing held on 7/14/2020. (RE: related document(s) <u>774</u> Application to employ James P. Seery, Jr. as Other Professional Debtors Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.) (Edmond, Michael) (Entered: 07/17/2020)
07/14/2020	<u>863</u> Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists,

	Inc. to Provide Financial Advisory and Restructuring–Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.) (Edmond, Michael) (Entered: 07/17/2020)
07/15/2020	<u>834</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>773</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> for Jeffrey Nathan P). (Annable, Zachery)
07/15/2020	<u>835</u> Motion to appear pro hac vice for James A. Wright III. Fee Amount \$100 Filed by Interested Parties NexPoint Real Estate Strategies Fund, Highland Global Allocation Fund, Highland Income Fund, NexPoint Strategic Opportunities Fund, NexPoint Capital, Inc., Highland Total Return Fund, Highland Fixed Income Fund, Highland Socially Responsible Equity Fund, Highland Small–Cap Equity Fund, Highland Funds II and its series, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland/iBoxx Senior Loan ETF, Highland Healthcare Opportunities Fund, Highland Funds I and its series, NexPoint Advisors, L.P., Highland Capital Management Fund Advisors, L.P. (Varshosaz, Artoush)
07/15/2020	Receipt of filing fee for Motion to Appear pro hac vice(19–34054–sgj11) [motion,mprohac] ( 100.00). Receipt number 27927823, amount \$ 100.00 (re: Doc# <u>835</u> ). (U.S. Treasury)
07/15/2020	<u>837</u> Response opposed to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i> ) filed by John Honis, Rand PE Fund Management, LLC, Rand PE Fund I, LP, Rand Advisors, LLC, Hunter Mountain Investment Trust, Beacon Mountain, LLC, Atlas IDF, LP, Atlas IDF, GP, LLC. (Keiffer, Edwin)
07/15/2020	<u>838</u> INCORRECT ENTRY: Attorney to amend and refile. Motion to appear pro hac vice for Stephen G. Topetzes. Fee Amount \$100 Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small–Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (Varshosaz, Artoush) MODIFIED on 7/16/2020 (Ecker, C.).
07/15/2020	Receipt of filing fee for Motion to Appear pro hac vice(19–34054–sgj11) [motion,mprohac] ( 100.00). Receipt number 27928069, amount \$ 100.00 (re: Doc# <u>838</u> ). (U.S. Treasury)
07/15/2020	<u>839</u> Response opposed to (related document(s): <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i> ) filed by Creditor Committee Official Committee of Unsecured Creditors. (Montgomery, Paige)
07/15/2020	

	<u>840</u> INCORRECT ENTRY: FILED WITHOUT EXHIBITS. Notice of Appearance and Request for Notice by Paul Richard Bessette filed by Interested Party Highland CLO Funding, Ltd.. (Bessette, Paul) Modified on 7/15/2020 (Rielly, Bill).
07/15/2020	<u>841</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i> ) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Varshosaz, Artoush)
07/15/2020	<u>842</u> Notice of Appearance and Request for Notice by Amanda Melanie Rush filed by Interested Party CCS Medical, Inc.. (Rush, Amanda)
07/15/2020	<u>843</u> Motion to appear pro hac vice for Tracy K. Stratford. Fee Amount \$100 Filed by Interested Party CCS Medical, Inc. (Rush, Amanda)
07/15/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27928305, amount \$ 100.00 (re: Doc# <u>843</u> ). (U.S. Treasury)
07/15/2020	<u>844</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, L.P.</i> ) filed by Interested Party CCS Medical, Inc.. (Rush, Amanda)
07/15/2020	<u>845</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
07/15/2020	<u>846</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor CLO Holdco, Ltd.. (Attachments: # <u>1</u> Exhibit A) (Kane, John)
07/15/2020	<u>847</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Parties NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors, L.P., VineBrook Homes, Trust, Inc., NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Partners, LLC, NexPoint Hospitality Trust, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, NexPoint Real Estate Finance Inc.. (Drawhorn, Lauren)
07/15/2020	<u>848</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>845</u> Objection). (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
07/16/2020	

	<u>849</u> Amended Motion to appear pro hac vice for Stephen G. Topetztes. (related document: <u>838</u> ) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (Varshosaz, Artoush)
07/16/2020	<u>850</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020., <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/21/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>810</u> and for <u>808</u> , (Annable, Zachery)
07/16/2020	<u>851</u> Notice of hearing ( <i>Notice of September 17, 2020 Omnibus Hearing Date</i> ) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm (Annable, Zachery)
07/16/2020	<u>852</u> Order Approving Stipulation Resolving the Motion for Expedited Consideration of the Official Committee of the Unsecured Creditors' Motion to Compel Production by the Debtor (RE: related document(s) <u>826</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 7/16/2020 (Ecker, C.)
07/16/2020	<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document # <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)
07/16/2020	<u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
07/16/2020	<u>855</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party MGM Holdings, Inc.. (Drawhorn, Lauren)
07/16/2020	<u>856</u> Notice of Appearance and Request for Notice by Artoush Varshosaz filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Varshosaz, Artoush)
07/16/2020	<u>857</u> Motion to appear pro hac vice for Mark M. Maloney. Fee Amount \$100 Filed by Interested Party Highland CLO Funding, Ltd. (Bessette, Paul)
07/16/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 27932614, amount \$ 100.00 (re: Doc# <u>857</u> ). (U.S. Treasury)
07/16/2020	<u>858</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested



	Party Highland CLO Funding, Ltd.. (Bessette, Paul)
07/16/2020	<u>859</u> Declaration re: <u>858</u> <i>Objection</i> filed by Interested Party Highland CLO Funding, Ltd. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor. ). (Attachments: # <u>1</u> Exhibit A) (Bessette, Paul)
07/16/2020	<u>860</u> Certificate of service re: <i>1) Order Denying Motion for Remittance of Funds Held in Registry of Court; and 2) Stipulation by and Between the Debtor and the Official Committee of Unsecured Creditors</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>825</u> Order denying motion to reclaim funds from the registry (Related Doc <u>590</u> ) Entered on 7/13/2020. (Okafor, M.), <u>826</u> Stipulation by Highland Capital Management, L.P. and The Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>808</u> Motion to compel Production by the Debtor. , <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs, <u>814</u> Motion for expedited hearing(related documents <u>808</u> Motion to compel) ). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i>
07/16/2020	<u>861</u> Certificate of service re: <i>1) Summary Sheet and Seventh Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from May 1, 2020 to and Including May 31, 2020; and 2) Summary Sheet and Second Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from March 1, 2020 Through and Including May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>830</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2020 to 5/31/2020, Fee: \$223,330.68, Expenses: \$1,874.65. Filed by Attorney Juliana Hoffman <i>Objections due by 8/4/2020.</i> filed by Financial Advisor FTI Consulting, Inc., <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by <i>Objections due by 8/4/2020.</i> (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
07/17/2020	<u>864</u> Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>863</u> Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
07/17/2020	<u>865</u> Order granting motion to appear pro hac vice adding Tracy K. Stratford for CCS Medical, Inc. (related document # <u>843</u> ) Entered on 7/17/2020. (Ecker, C.)
07/17/2020	

	<p><u>866</u> Order granting motion to appear pro hac vice adding James A. Wright for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document # <u>835</u>) Entered on 7/17/2020. (Ecker, C.)</p>
07/17/2020	<p><u>867</u> Order granting motion to appear pro hac vice adding Stephen G. Topetzes for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document # <u>849</u>) Entered on 7/17/2020. (Ecker, C.)</p>
07/17/2020	<p><u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020. (Annable, Zachery)</p>
07/17/2020	<p><u>869</u> Reply to (related document(s): <u>839</u> Response filed by Creditor Committee Official Committee of Unsecured Creditors) (<i>Debtor's Reply to the Committee's Response to the Debtor's Discovery Motion</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
07/17/2020	<p><u>870</u> Declaration re: (<i>Declaration of John A. Morris in Further Support of the Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs.</i>)). (Annable, Zachery)</p>
07/17/2020	<p><u>871</u> Declaration re: <i>First Supplemental Declaration of Alexander McGeoch in Support of Debtor's Application for an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s)<u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel (<i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i>)). (Hesse, Gregory)</p>
07/17/2020	<p><u>872</u> Response opposed to (related document(s): <u>841</u> Objection filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Funds I and its series, Interested Party Highland Healthcare Opportunities Fund, Interested Party Highland/iBoxx Senior Loan ETF, Interested Party Highland Opportunistic Credit Fund, Interested Party Highland Merger Arbitrage Fund, Interested Party Highland Funds II and its series, Interested Party Highland Small-Cap Equity Fund, Interested Party Highland Fixed Income Fund, Interested Party Highland Socially Responsible Equity Fund, Interested Party Highland Total Return Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, Interested Party NexPoint Real Estate Strategies Fund, <u>844</u> Objection filed by Interested Party CCS Medical, Inc., <u>845</u> Objection filed by Debtor Highland Capital Management, L.P., <u>846</u> Objection filed by Creditor CLO Holdco, Ltd., <u>847</u> Objection filed by Interested Party NexPoint Real Estate Finance Inc., Interested Party Nexpoint Real Estate Capital,</p>

	<p>LLC, Interested Party NexPoint Residential Trust, Inc., Interested Party NexPoint Hospitality Trust, Interested Party NexPoint Real Estate Partners, LLC, Interested Party NexPoint Multifamily Capital Trust, Inc., Interested Party VineBrook Homes, Trust, Inc., Interested Party NexPoint Real Estate Advisors, L.P., Interested Party NexPoint Real Estate Advisors II, L.P., Interested Party NexPoint Real Estate Advisors III, L.P., Interested Party NexPoint Real Estate Advisors IV, L.P., Interested Party NexPoint Real Estate Advisors V, L.P., Interested Party NexPoint Real Estate Advisors VI, L.P., Interested Party NexPoint Real Estate Advisors VII, L.P., Interested Party NexPoint Real Estate Advisors VIII, L.P., <u>855</u> Objection filed by Interested Party MGM Holdings, Inc., <u>858</u> Objection filed by Interested Party Highland CLO Funding, Ltd.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Montgomery, Paige)</p>
07/17/2020	<p><u>873</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>868</u>, (Annable, Zachery)</p>
07/19/2020	<p><u>874</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>865</u> Order granting motion to appear pro hac vice adding Tracy K. Stratford for CCS Medical, Inc. (related document <u>843</u>) Entered on 7/17/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/19/2020. (Admin.)</p>
07/19/2020	<p><u>875</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>866</u> Order granting motion to appear pro hac vice adding James A. Wright for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small–Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document <u>835</u>) Entered on 7/17/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/19/2020. (Admin.)</p>
07/19/2020	<p><u>876</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>867</u> Order granting motion to appear pro hac vice adding Stephen G. Topetzes for Highland Funds I and its series; Highland Funds II and its series; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland Income Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small–Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Total Return Fund; Highland/iBoxx Senior Loan ETF; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Real Estate Strategies Fund; Highland Capital Management Fund Advisors, L.P. and Highland Fixed Income Fund (related document <u>849</u>) Entered on 7/17/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 07/19/2020. (Admin.)</p>
07/20/2020	<p><u>877</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 6/30/2020, Fee: \$493,788.96, Expenses: \$5,759.29. Filed by Objections due by 8/10/2020. (Hoffman, Juliana)</p>
07/20/2020	<p><u>878</u> Application for compensation <i>Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$818,786.50, Expenses: \$3,205.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/10/2020. (Pomerantz, Jeffrey)</p>
07/20/2020	<p><u>879</u> Amended application for compensation <i>Amended Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020 (amended</i></p>

	<p>to include Exhibit) for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$818,786.50, Expenses: \$3,205.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/10/2020. (Pomerantz, Jeffrey)</p>
07/20/2020	<p><u>880</u> Certificate of service re: 1) Debtor's Objection to Official Committee of Unsecured Creditors Emergency Motion to Compel Production by the Debtor; and 2) Declaration of John A. Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors Emergency Motion to Compel Production by the Debtor Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>845</u> Objection to (related document(s): <u>808</u> Motion to compel Production by the Debtor. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>848</u> Declaration re: (Declaration of John A. Morris in Support of the Debtor's Objection to the Official Committee of Unsecured Creditors' Emergency Motion to Compel Production by the Debtor) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>845</u> Objection). (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/20/2020	<p><u>881</u> Certificate of service re: Documents Served on July 16, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>850</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>808</u> Motion to compel Production by the Debtor. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 7/29/2020., <u>810</u> Motion for protective order (Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 7/21/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>810</u> and for <u>808</u>, filed by Debtor Highland Capital Management, L.P., <u>851</u> Notice of hearing (Notice of September 17, 2020 Omnibus Hearing Date) filed by Debtor Highland Capital Management, L.P.. Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm filed by Debtor Highland Capital Management, L.P., <u>852</u> Order Approving Stipulation Resolving the Motion for Expedited Consideration of the Official Committee of the Unsecured Creditors' Motion to Compel Production by the Debtor (RE: related document(s)<u>826</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 7/16/2020 (Ecker, C.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.), <u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.). (Kass, Albert)</p>
07/21/2020	<p><u>882</u> Order granting motion to appear pro hac vice adding Mark M. Maloney for Highland CLO Funding, Ltd. (related document # <u>857</u>) Entered on 7/21/2020. (Okafor, M.)</p>
07/21/2020	<p><u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020. (Hoffman, Juliana)</p>
07/21/2020	<p><u>894</u> Hearing held on 7/21/2020. (RE: related document(s)<u>808</u> Motion to compel Production by the Debtor, filed by Creditor Committee Official Committee of Unsecured Creditors.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Motion granted in substantial part, but with special privilege review protections granted as to the three lawyer custodians, as to CCS Medical and MGM communications, and as to</p>



	Atlass communications with outside law firms. Counsel to submit order. ) (Edmond, Michael) (Entered: 07/24/2020)
07/21/2020	<u>895</u> Hearing held on 7/21/2020. (RE: related document(s) <u>810</u> Motion for protective order (Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034), filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Motion denied in substantial part, but with special privilege review protections granted as to the three lawyer custodians, as to CCS Medical and MGM, and as to Atlass communications with outside law firms. Counsel to submit order.) (Edmond, Michael) (Entered: 07/24/2020)
07/21/2020	<u>896</u> Hearing held on 7/21/2020. (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Scheduling discussed, including that there will be a setting on 9/17/20 on the objections to Aciss proof of claim for arguing certain issues of law and, perhaps, narrow issues for trial. Counsel to submit an interim scheduling order that memorializes dicussions.) (Edmond, Michael) (Entered: 07/24/2020)
07/22/2020	<u>884</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 6/1/2020 to 6/30/2020, Fee: \$21,242.00, Expenses: \$343.69. Filed by Attorney Holland N. O'Neil Objections due by 8/12/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
07/22/2020	<u>885</u> INCORRECT ENTRY: EVENT CODE. Motion to extend or limit the exclusivity period Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery) Modified on 7/22/2020 (Rielly, Bill).
07/22/2020	<u>886</u> Motion to extend time to assume or reject unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery)
07/22/2020	<u>887</u> Notice of hearing ( <i>Notice of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/14/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
07/22/2020	<u>888</u> Request for transcript regarding a hearing held on 7/21/2020. The requested turn-around time is daily. (Edmond, Michael)
07/22/2020	<u>889</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management

	L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , (Annable, Zachery)
07/22/2020	<u>890</u> Certificate of service re: <i>Documents Served on July 17, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020. filed by Debtor Highland Capital Management, L.P., <u>869</u> Reply to (related document(s): <u>839</u> Response filed by Creditor Committee Official Committee of Unsecured Creditors) ( <i>Debtor's Reply to the Committee's Response to the Debtor's Discovery Motion</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>870</u> Declaration re: ( <i>Declaration of John A. Morris in Further Support of the Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs.</i> ) filed by Debtor Highland Capital Management, L.P., <u>871</u> Declaration re: <i>First Supplemental Declaration of Alexander McGeoch in Support of Debtor's Application for an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel ( <i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> )). filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, <u>873</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>868</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/23/2020	<u>891</u> Objection to claim(s) 3 of Creditor(s) ACIS Capital Management L.P. and ACIS Capital Management GP, LLC.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
07/23/2020	<u>892</u> Certificate of service re: <i>Amended Ninth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 Through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>879</u> Amended application for compensation <i>Amended Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020 (amended to include Exhibit)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$818,786.50, Expenses: \$3,205.81. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/10/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/23/2020	<u>893</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>882</u> Order granting motion to appear pro hac vice adding Mark M. Maloney for Highland CLO Funding, Ltd. (related document <u>857</u> ) Entered on 7/21/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 07/23/2020. (Admin.)
07/24/2020	<u>897</u> Transcript regarding Hearing Held 07/21/20 RE: DOCS 808 and 810. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/22/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court

	<p>Reporter/Transcriber Transcripts Plus, Inc., Telephone number 215-862-1115 CourtTranscripts@aol.com. (RE: related document(s) 896 Hearing held on 7/21/2020. (RE: related document(s) <u>1</u> Order transferring case number 19-12239 from U.S. Bankruptcy Court for the District of Delaware Filed by Highland Capital Management, L.P.) (Appearances: J. Morris, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and A. Chiarello for Acis; T. Mascherin for Redeemer Committee; M. Lynn and J. Bonds for J. Dondero; L. Drawhorn for NexPoint funds and MGM; P. Keiffer for Atlas; S. Topetzes and J. Wright for Highland Capital Management Fund Advisors, L.P. and other funds; T. Stratford for CCS Medical; R. Matsumura and M. Maloney for HCLOF; J. Kane for CLO Holdco.; J. Slade for NexBank; K. Preston for certain employees sued by Acis. Nonevidentiary hearing. Scheduling discussed, including that there will be a setting on 9/17/20 on the objections to Acis proof of claim for arguing certain issues of law and, perhaps, narrow issues for trial. Counsel to submit an interim scheduling order that memorializes discussions.)). Transcript to be made available to the public on 10/22/2020. (Hartmann, Karen)</p>
07/24/2020	<p><u>898</u> Certificate of service re: <i>1) Summary Cover Sheet and Eighth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from June 1, 2020 to and Including June 30, 2020; and 2) Summary Cover Sheet and Second Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from March 1, 2020 Through and Including May 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>877</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, LLP for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 6/30/2020, Fee: \$493,788.96, Expenses: \$5,759.29.</i> Filed by Objections due by 8/10/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26.</i> Filed by Objections due by 8/11/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</p>
07/27/2020	<p><u>899</u> Certificate of No Objection filed by Other Professional Hayward &amp; Associates PLLC (RE: related document(s) <u>795</u> Application for compensation (<i>Fifth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from April 1, 2020 through April 30, 2020</i>) for Hayward &amp; Assoc). (Annable, Zachery)</p>
07/27/2020	<p><u>900</u> Certificate of service re: <i>Documents Served on July 22, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>884</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 6/1/2020 to 6/30/2020, Fee: \$21,242.00, Expenses: \$343.69. Filed by Attorney Holland N. O'Neil Objections due by 8/12/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <u>886</u> Motion to extend time to assume or reject unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>887</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/14/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>889</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>

07/28/2020	<p><u>901</u> INCORRECT ENTRY: See # <u>902</u> for correction. Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>733</u> Motion for leave to <i>File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>687</u> Response, <u>690</u> Objection, <u>692</u> Objection, <u>694</u> Joinder, <u>701</u> Objection) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Reply # 3 Exhibit 1 # 4 Exhibit 2 # 5 Exhibit 3 # 6 Exhibit 4 # 7 Exhibit 5 # 8 Exhibit 6 # 9 Exhibit 7 # 10 Exhibit 8 # 11 Exhibit 9 # 12 Exhibit 10 # 13 Exhibit 11 # 14 Exhibit 12 # 15 Exhibit 13 # 16 Exhibit 14)) Responses due by 8/4/2020. (Ecker, C.) Modified on 7/28/2020 (Ecker, C.).</p>
07/28/2020	<p><u>902</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>733</u> Motion for leave to <i>File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action</i> (related document(s) <u>687</u> Response, <u>690</u> Objection, <u>692</u> Objection, <u>694</u> Joinder, <u>701</u> Objection) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 7/2/2020. (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Reply # 3 Exhibit 1 # 4 Exhibit 2 # 5 Exhibit 3 # 6 Exhibit 4 # 7 Exhibit 5 # 8 Exhibit 6 # 9 Exhibit 7 # 10 Exhibit 8 # 11 Exhibit 9 # 12 Exhibit 10 # 13 Exhibit 11 # 14 Exhibit 12 # 15 Exhibit 13 # 16 Exhibit 14)) Responses due by 8/4/2020. (Ecker, C.)</p>
07/28/2020	<p><u>903</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>746</u> Motion to file document under seal. Filed by Interested Parties UBS AG London Branch , UBS Securities LLC (Ecker, C.)) Responses due by 8/4/2020. (Ecker, C.)</p>
07/28/2020	<p>Receipt Number 00338615, Fee Amount \$30,715.92 (RE: related document(s) <u>821</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)</p>
07/28/2020	<p>Receipt Number 00338617, Fee Amount \$20,830.29 (RE: related document(s) <u>821</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)</p>
07/28/2020	<p>Receipt Number 00338616, Fee Amount \$84,062.32 (RE: related document(s) <u>821</u> Order on motion for authority to apply and disburse funds.) NOTE: Deposit of funds into the Registry of the Court. (Floyd, K). (Entered: 08/10/2020)</p>
07/30/2020	<p><u>904</u> Notice of Appearance and Request for Notice <i>Chad Timmons, Emily M. Hahn, Larry R. Boyd</i> by Chad D. Timmons filed by Creditor COLLIN COUNTY TAX ASSESSOR/COLLECTOR. (Timmons, Chad)</p>
07/30/2020	<p><u>905</u> Amended Debtor-in-possession monthly operating report for filing period May 1, 2020 to May 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>800</u> Operating report). (Annable, Zachery)</p>
07/30/2020	<p><u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund;</p>



	<p>Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order and Schedules 1–7) (Annable, Zachery)</p>
07/30/2020	<p><u>907</u> Notice of hearing (<i>Notice of Hearing on Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moody's Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order and Schedules 1–7)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>906</u>, (Annable, Zachery)</p>
07/31/2020	<p><u>908</u> Response opposed to (related document(s): <u>771</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u></p>

	Exhibit 4) (Patel, Rakhee)
08/03/2020	<u>909</u> Agreed Order Granting <u>886</u> Motion to extend deadline to assume or reject unexpired nonresidential real property lease by sixty days. Entered on 8/3/2020. (Okafor, M.)
08/03/2020	<u>910</u> Order granting motion for leave to File an Omnibus Reply to Objections to UBS's Motion for Relief from the Automatic Stay to Proceed With State Court Action (related document # <u>733</u> ) Entered on 8/3/2020. (Okafor, M.)
08/03/2020	<u>911</u> Order granting motion to seal documents (related document # <u>746</u> ) Entered on 8/3/2020. (Okafor, M.)
08/03/2020	<u>912</u> Order directing mediation (RE: related document(s) <u>3</u> Document filed by Debtor Highland Capital Management, L.P.). Entered on 8/3/2020 (Okafor, M.)
08/03/2020	<u>913</u> Debtor-in-possession monthly operating report for filing period June 1, 2020 to June 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
08/03/2020	<u>914</u> Motion for leave [ <i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i> ] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held) Filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Kane, John)
08/04/2020	<u>915</u> Joinder by <i>NexPoint RE Entities' Joinder to CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i> filed by Interested Parties NexPoint Hospitality Trust, NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Finance Inc., NexPoint Real Estate Partners, LLC, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, VineBrook Homes, Trust, Inc. (RE: related document(s) <u>914</u> Motion for leave [ <i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i> ] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held)). (Drawhorn, Lauren)
08/04/2020	<u>916</u> Certificate of service re: 1) <i>Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims; and 2) Notice of Hearing on Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun & Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood & Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare

	<p>Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7) filed by Debtor Highland Capital Management, L.P., <u>907</u> Notice of hearing (<i>Notice of Hearing on Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>906</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
08/05/2020	<p><u>917</u> Application for compensation (<i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 5/1/2020 to 5/31/2020, Fee: \$17,667.50, Expenses: \$37.40. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&amp;A May 2020 Invoice) (Annable, Zachery)</p>

08/05/2020	<u>918</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors</i> , Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,5). (Attachments: # <u>1</u> Exhibit) (Hoffman, Juliana)
08/05/2020	<u>919</u> Certificate of service re: <i>1) Agreed Order Extending Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease by Sixty Days; and 2) Order Directing Mediation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>909</u> Agreed Order Granting <u>886</u> Motion to extend deadline to assume or reject unexpired nonresidential real property lease by sixty days. Entered on 8/3/2020. (Okafor, M.), <u>912</u> Order directing mediation (RE: related document(s) <u>3</u> Document filed by Debtor Highland Capital Management, L.P.). Entered on 8/3/2020 (Okafor, M.)). (Kass, Albert)
08/05/2020	<u>920</u> Certificate of No Objection (Amended) filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>918</u> Certificate (generic)). (Hoffman, Juliana)
08/05/2020	<u>921</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
08/06/2020	<u>922</u> Application for compensation <i>Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 7/1/2020 to 7/31/2020, Fee: \$6,264.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
08/06/2020	<u>923</u> Notice of Appearance and Request for Notice by Jared M. Slade filed by Interested Party NexBank. (Slade, Jared)
08/06/2020	<u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # <u>1</u> Exhibit A – Invoices # <u>2</u> Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland)
08/06/2020	<u>925</u> Certificate of service re: <i>re: 1) Cover Sheet and Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 Through May 31, 2020; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>917</u> Application for compensation ( <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 5/1/2020 to 5/31/2020, Fee: \$17,667.50, Expenses: \$37.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A May 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>921</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT



	TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/06/2020	<u>926</u> Withdrawal of claim(s) Claim has been satisfied. Claim: 9 Filed by Creditor Gray Reed & McGraw LLP. (Brookner, Jason)
08/07/2020	<u>927</u> Joinder by filed by Interested Party NexBank (RE: related document(s) <u>914</u> Motion for leave [ <i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i> ] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held)). (Slade, Jared)
08/07/2020	<u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # <u>1</u> Exhibit 18 # <u>2</u> Exhibit 19) (Annable, Zachery)
08/07/2020	<u>929</u> Notice of hearing ( <i>Notice of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 9/29/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
08/07/2020	<u>930</u> Response opposed to (related document(s): <u>914</u> Motion for leave [ <i>CLO Holdco, Ltd.'s Motion for Clarification of Ruling</i> ] (related document(s) <u>808</u> Motion to compel, <u>846</u> Objection, <u>872</u> Response, 894 Hearing held) filed by Creditor CLO Holdco, Ltd.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Attachments: # <u>1</u> Exhibit A) (Montgomery, Paige)
08/07/2020	<u>931</u> Application for compensation ( <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$18,025.00, Expenses: \$452.40. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A June 2020 Invoice) (Annable, Zachery)
08/07/2020	<u>932</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEES OBJECTION TO THE PROOF OF CLAIM OF UBS AG, LONDON BRANCH AND UBS SECURITIES, LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Proposed Order Proposed Order Granting Motion to Seal) (Platt, Mark)
08/07/2020	<u>933</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit Exhibit 1 (slip page – to be filed under seal upon order from Court)) # <u>2</u> Exhibit Exhibit 2 (slip page – to be filed under seal upon order from Court) # <u>3</u> Exhibit Exhibit 3 (slip page – to be filed under seal upon order from Court) # <u>4</u> Exhibit Exhibit 4 # <u>5</u> Exhibit Exhibit 5 # <u>6</u> Exhibit Exhibit 6 (slip page – to be filed under seal upon order from Court) # <u>7</u> Exhibit Exhibit 7 (slip page – to be filed under seal upon order from Court) # <u>8</u> Exhibit Exhibit 8 # <u>9</u> Exhibit Exhibit 9 (slip page – to be filed under seal upon order from Court) # <u>10</u> Exhibit Exhibit 10 # <u>11</u> Exhibit Exhibit 11 # <u>12</u> Exhibit Exhibit 12 # <u>13</u> Exhibit Exhibit 13 # <u>14</u> Exhibit Exhibit 14 # <u>15</u> Exhibit Exhibit 15 # <u>16</u> Exhibit Exhibit 16 (slip page – to be filed under seal upon order from Court) # <u>17</u> Exhibit Exhibit 17 # <u>18</u> Exhibit Exhibit 18 # <u>19</u> Exhibit Exhibit 19 # <u>20</u> Exhibit Exhibit 20 (slip page – to be filed under seal upon order from Court) # <u>21</u> Exhibit Exhibit 21 (slip page – to be filed under seal

	upon order from Court) # <u>22</u> Exhibit Exhibit 22 (slip page – to be filed under seal upon order from Court)) (Platt, Mark)
08/10/2020	<u>934</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 6/30/2020, Fee: \$328,185.72, Expenses: \$440.33. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 8/31/2020. (Hoffman, Juliana)
08/11/2020	<u>935</u> Order on Motion for Clarification of Ruling and the Joinders Thereto (RE: related document(s) <u>914</u> Motion for leave filed by Creditor CLO Holdco, Ltd., <u>915</u> Joinder filed by Interested Party NexPoint Real Estate Finance Inc., Interested Party Nexpoint Real Estate Capital, LLC, Interested Party NexPoint Residential Trust, Inc., Interested Party NexPoint Hospitality Trust, Interested Party NexPoint Real Estate Partners, LLC, Interested Party NexPoint Multifamily Capital Trust, Inc., Interested Party VineBrook Homes, Trust, Inc., Interested Party NexPoint Real Estate Advisors, L.P., Interested Party NexPoint Real Estate Advisors II, L.P., Interested Party NexPoint Real Estate Advisors III, L.P., Interested Party NexPoint Real Estate Advisors IV, L.P., Interested Party NexPoint Real Estate Advisors V, L.P., Interested Party NexPoint Real Estate Advisors VI, L.P., Interested Party NexPoint Real Estate Advisors VII, L.P., Interested Party NexPoint Real Estate Advisors VIII, L.P., <u>927</u> Joinder filed by Interested Party NexBank). Entered on 8/11/2020 (Rielly, Bill)
08/11/2020	<u>936</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$739,976.00, Expenses: \$1,189.12. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/1/2020. (Pomerantz, Jeffrey)
08/11/2020	<u>937</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>879</u> Amended application for compensation <i>Amended Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020 (amended t)</i> . (Pomerantz, Jeffrey)
08/11/2020	<u>938</u> Certificate of service re: 1) <i>Cover Sheet and Ninth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from July 1, 2020 Through July 31, 2020</i> ; and 2) <i>Cover Sheet and Second Interim Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 Through July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>922</u> Application for compensation <i>Ninth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 7/1/2020 to 7/31/2020, Fee: \$6,264.50, Expenses: \$0.00. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP). (Kass, Albert)
08/11/2020	<u>939</u> Certificate of service re: 1) <i>Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ; and 2) <i>Notice of Status Conference; to be Held on September 29, 2020 at 1:30 p.m. (Central Time)</i> ; and 3) <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>928</u>

	<p>Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19) filed by Debtor Highland Capital Management, L.P., <u>929</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 9/29/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>931</u> Application for compensation (<i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 6/1/2020 to 6/30/2020, Fee: \$18,025.00, Expenses: \$452.40. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—H&amp;A June 2020 Invoice) filed by Other Professional Hayward &amp; Associates PLLC). (Kass, Albert)</p>
08/11/2020	<p><u>940</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Friday, August 14, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan</i>; 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i>; and 3) <i>Summary Cover Sheet and Eighth Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period From June 1, 2020 to and Including June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>934</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 6/30/2020, Fee: \$328,185.72, Expenses: \$440.33. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 8/31/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</p>
08/12/2020	<p><u>941</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>877</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Sidley Austin, LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 6/30/2020, Fee: \$493,78). (Hoffman, Juliana)</p>
08/12/2020	<p><u>942</u> Order resolving discovery motions and objections thereto (related document <u>808</u> and <u>810</u> Motion for protective order (<i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Purs filed by Debtor Highland Capital Management, ) Entered on 8/12/2020. (Okafor, M.). Modified linkage on 10/1/2020 (Okafor, M.).</i></p>
08/12/2020	<p><u>943</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2020 through June 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.)). (Annable, Zachery)</p>
08/12/2020	<p><u>944</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
08/12/2020	<p><u>945</u> Disclosure statement filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A—Plan)(Annable, Zachery)</p>
08/13/2020	<p><u>946</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP (RE: related document(s)<u>884</u> Application for compensation <i>Eighth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from June 1, 2020 through June 30,</i></p>

	2020 for Foley Garder). (O'Neil, Holland)
08/13/2020	<u>947</u> Joint Motion to continue hearing on (related documents <u>771</u> Objection to claim) ( <i>Joint Motion to Continue Status Conference</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
08/13/2020	<u>948</u> Motion to file document under seal. ( <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of the Debtor's Plan of Reorganization and Disclosure Statement</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
08/13/2020	<u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
08/13/2020	<u>950</u> Order granting motion to seal documents (related document # <u>932</u> ) Entered on 8/13/2020. (Okafor, M.)
08/13/2020	<u>951</u> Order granting joint motion to continue hearing on (related document # <u>947</u> ) (related documents Objection to claim) Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 8/13/2020. (Okafor, M.)
08/13/2020	<u>952</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>949</u> , (Annable, Zachery)
08/13/2020	<b>953 SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS AND THE CRUSADER FUNDS' OBJECTION TO THE PROOF OF CLAIM OF UBS AG, LONDON BRANCH AND UBS SECURITIES, LLC AND JOINDER IN THE DEBTOR'S OBJECTION per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>950</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit Exhibit 1 – Original Synthetic Warehouse Agreement # <u>2</u> Exhibit Exhibit 2 Original Engagement Ltr. # <u>3</u> Exhibit Exhibit 3 Original Cash Warehouse Agreement # <u>4</u> Exhibit Exhibit 6 Expert Report of Louis G. Dudney # <u>5</u> Exhibit Exhibit 7 March 20, 2009 Termination Settlement and Release Agreement # <u>6</u> Exhibit Exhibit 9 UBS and Crusader Fund Settlement Agreement # <u>7</u> Exhibit Exhibit 16 Unredacted version of UBS's Second Amended Complaint # <u>8</u> Exhibit Exhibit 20 UBS's Pre-Trial Brief ISO Bifurcation # <u>9</u> Exhibit Exhibit 21 UBS and Credit Strategies Settlement Agreement # <u>10</u> Exhibit Exhibit 22 Crusader Fund scheme of Arrangement and Joint Plan of Distribution) (Platt, Mark)
08/13/2020	<u>954</u> Amended Notice of hearing ( <i>Amended Notice of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
08/13/2020	<u>955</u> Order granting motion to seal documents (related document # <u>948</u> ) Entered on 8/13/2020. (Okafor, M.)
08/13/2020	<b>956 SEALED document regarding: Plan of Reorganization of Highland Capital Management, L.P. per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>955</u> Order on motion to seal). (Annable, Zachery)
08/13/2020	



	<b>957 SEALED document regarding: Disclosure Statement for the Plan of Reorganization of Highland Capital Management, L.P. per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>955</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit A—Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
08/13/2020	<u>958</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>935</u> Order on Motion for Clarification of Ruling and the Joinders Thereto (RE: related document(s) <u>914</u> Motion for leave filed by Creditor CLO Holdco, Ltd., <u>915</u> Joinder filed by Interested Party NexPoint Real Estate Finance Inc., Interested Party Nexpoint Real Estate Capital, LLC, Interested Party NexPoint Residential Trust, Inc., Interested Party NexPoint Hospitality Trust, Interested Party NexPoint Real Estate Partners, LLC, Interested Party NexPoint Multifamily Capital Trust, Inc., Interested Party VineBrook Homes, Trust, Inc., Interested Party NexPoint Real Estate Advisors, L.P., Interested Party NexPoint Real Estate Advisors II, L.P., Interested Party NexPoint Real Estate Advisors III, L.P., Interested Party NexPoint Real Estate Advisors IV, L.P., Interested Party NexPoint Real Estate Advisors V, L.P., Interested Party NexPoint Real Estate Advisors VI, L.P., Interested Party NexPoint Real Estate Advisors VII, L.P., Interested Party NexPoint Real Estate Advisors VIII, L.P., <u>927</u> Joinder filed by Interested Party NexBank). Entered on 8/11/2020) No. of Notices: 2. Notice Date 08/13/2020. (Admin.)
08/14/2020	<u>959</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>830</u> Application for compensation <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 5/1/2020 to 5/31/2020, Fee: \$223,330.68, Expenses: \$1,874.65.). (Hoffman, Juliana)
08/14/2020	<u>960</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26.). (Hoffman, Juliana)
08/14/2020	<u>961</u> Certificate of service re: <i>Cover Sheet and Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>936</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$739,976.00, Expenses: \$1,189.12. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/1/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/14/2020	<u>962</u> Certificate of service re: <i>1) Order Resolving Discovery Motions and Objections Thereto; and 2) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2020 Through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>942</u> Order resolving discovery motions and objections thereto (related document <u>808</u> ) Entered on 8/12/2020. (Okafor, M.), <u>943</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2020 through June 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/17/2020	<u>963</u> Motion to file document under seal. Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Chiarello, Annmarie)
08/18/2020	<u>964</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1,</i>

	2020 through June 30, 2020) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—Invoices) (Annable, Zachery)
08/18/2020	<u>965</u> Order granting motion to seal documents (related document # <u>963</u> ) Entered on 8/18/2020. (Okafor, M.)
08/18/2020	<b>966 SEALED document regarding: email correspondence produced by Highland Capital Management, L.P. in connection with Acis's bankruptcy cases and bates labeled CONFIDENTIAL Highland0035395– Highland0035405 per court order</b> filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>965</u> Order on motion to seal). (Chiarello, Annmarie)
08/18/2020	<u>967</u> Certificate of service re: <i>Documents Served on August 13, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>947</u> Joint Motion to continue hearing on (related documents <u>771</u> Objection to claim) ( <i>Joint Motion to Continue Status Conference</i> ) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>948</u> Motion to file document under seal. ( <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal of the Debtor's Plan of Reorganization and Disclosure Statement</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>951</u> Order granting joint motion to continue hearing on (related document <u>947</u> ) (related documents Objection to claim) Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 8/13/2020. (Okafor, M.), <u>952</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>949</u> , filed by Debtor Highland Capital Management, L.P., <u>954</u> Amended Notice of hearing ( <i>Amended Notice of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.). Status Conference to be held on 8/19/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>955</u> Order granting motion to seal documents (related document <u>948</u> ) Entered on 8/13/2020. (Okafor, M.)). (Kass, Albert)
08/19/2020	<u>968</u> Hearing held on 8/19/2020. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.) (Edmond, Michael)
08/19/2020	<u>969</u> Application for compensation <i>Sidley Austin, LLP's Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 7/1/2020 to 7/31/2020, Fee: \$531,094.32, Expenses: \$10,470.96. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 9/9/2020. (Hoffman, Juliana)
08/19/2020	<u>970</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related

	document(s) <u>868</u> Objection to claim). (Annable, Zachery)
08/19/2020	<u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020. (Pomerantz, Jeffrey)
08/19/2020	<u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020. (Pomerantz, Jeffrey)
08/19/2020	<u>973</u> Support/supplemental document ( <i>Notice of Filing of Executed Signature Pages to Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
08/19/2020	<u>974</u> Support/supplemental document ( <i>Notice of Filing of Executed Signature Pages to Disclosure Statement for the Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
08/19/2020	<u>975</u> Application for compensation ( <i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i> ) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # <u>1</u> Exhibit A-1 # <u>2</u> Exhibit A-2 # <u>3</u> Exhibit B) (Annable, Zachery)
08/19/2020	<u>976</u> Notice of hearing ( <i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation



	<p><i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020 for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>, (Annable, Zachery)</i></p>
08/20/2020	<p><u>977</u> Amended Notice of hearing (<i>Amended Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 10/6/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)</p>
08/20/2020	<p><u>978</u> Order approving joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s)<u>970</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/20/2020 (Okafor, M.)</p>
08/20/2020	<p><u>979</u> Certificate of service re: 1) <i>Webex Meeting Invitation to participate electronically in the hearing on Wednesday, August 19, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan;</i> 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing;</i> and 3) <i>Notice of and Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 Through June 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>964</u> Application for compensation (<i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—Invoices) filed by Other Professional Hayward &amp; Associates PLLC). (Kass, Albert)</p>
08/20/2020	<p><u>980</u> Certificate of service re: <i>Documents Served on August 19, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>969</u> Application for compensation <i>Sidley Austin, LLP's Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 7/1/2020 to 7/31/2020, Fee: \$531,094.32, Expenses: \$10,470.96. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 9/9/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>970</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P., <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020. filed by Debtor Highland Capital Management, L.P., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020. filed by Consultant Mercer (US) Inc., <u>975</u></p>



	<p>Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B), <u>976</u> Notice of hearing (<i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
08/21/2020	<u>981</u> Certificate (Affidavit of Service) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
08/21/2020	<u>982</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
08/21/2020	<u>983</u> Agreed Scheduling Order and Order setting hearing on any timely filed Summary Judgment Motion and Summary Judgment Response (RE: related document(s) <u>771</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u> , Entered on 8/21/2020 (Okafor, M.) Modified text on 8/21/2020 (Okafor, M.).

08/21/2020	<u>984</u> Motion to appear pro hac vice for Tracy M. O'Steen. Fee Amount \$100 Filed by Interested Party Integrated Financial Associates, Inc. (Bryant, M.)
08/23/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28037405, amount \$ 100.00 (re: Doc# <u>984</u> ). (U.S. Treasury)
08/23/2020	<u>985</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>978</u> Order approving joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>970</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/20/2020 (Okafor, M.)) No. of Notices: 1. Notice Date 08/23/2020. (Admin.)
08/24/2020	<u>986</u> Order approving joint stipulation regarding modification to order approving ordinary course professionals for Robert Half Legal (RE: related document(s) <u>982</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/24/2020 (Okafor, M.)
08/24/2020	<u>987</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). (Annable, Zachery)
08/24/2020	<u>988</u> Support/supplemental document <i>Supplement to Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere). (O'Neil, Holland)
08/25/2020	<u>989</u> Order granting motion to appear pro hac vice adding Tracy M. O'Steen for Integrated Financial Associates, Inc. (related document # <u>984</u> ) Entered on 8/25/2020. (Okafor, M.)
08/25/2020	<u>990</u> Order approving second joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>987</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/25/2020 (Okafor, M.)
08/25/2020	<u>991</u> Certificate of service re: 1) <i>Amended Notice of Status Conference; to be Held on October 6, 2020 at 1:30 p.m. (Central Time); and 2) Order Approving Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>977</u> Amended Notice of hearing ( <i>Amended Notice of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19)). Status Conference to be held on 10/6/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>978</u> Order approving joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>970</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/20/2020 (Okafor, M.)). (Kass, Albert)
08/25/2020	<u>992</u> Certificate of service re: 1) <i>Affidavit of Service of Karina Yee re: Action by Written Consent of Stockholders in Lieu of Special Meeting (Cornerstone Healthcare Group Holding, Inc.); 2) Joint Stipulation Regarding Modification to Order Approving Ordinary Course Professionals for Robert Half Legal; and 3) Agreed Scheduling Order Regarding Objections to Proof of Claim of Acis Capital Management, L.P. and Acis Capital Management GP, LLC</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related

	<p>document(s)<u>981</u> Certificate (Affidavit of Service) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>982</u> Stipulation by Highland Capital Management, L.P. and Official Committee of Unsecured Creditors. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>983</u> Agreed Scheduling Order and Order setting hearing on any timely filed Summary Judgment Motion and Summary Judgment Response (RE: related document(s)<u>771</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>771</u>, Entered on 8/21/2020 (Okafor, M.) Modified text on 8/21/2020 (Okafor, M.). (Kass, Albert)</p>
08/26/2020	<p><u>993</u> Request for transcript regarding a hearing held on 8/19/2020. The requested turn-around time is daily. (Edmond, Michael)</p>
08/26/2020	<p><u>994</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor Paul N. Adkins . (Dugan, S.) Filed by Creditor Paul N. Adkins (related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7) filed by Debtor Highland Capital Management, L.P.). (COURT NOTE: Signature of filer not included. Amended response with signature requested) (Dugan, S.)</p>
08/26/2020	<p><u>995</u> Adversary case 20–03105. Complaint by Highland Capital Management, L.P. against Hunter Mountain Investment Trust. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Proceeding Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). 91 (Declaratory judgment). (Annable, Zachery)</p>
08/26/2020	<p><u>996</u> Objection to claim(s) of Creditor(s) Redeemer Committee of the Highland Crusader Fund – Proof of Claim No. 72.. Filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)</p>

08/26/2020	<u>997</u> Motion to file document under seal. <i>(With the Objection to the Proof of Claim Filed by Redeemer Committee of the Highland Crusader Fund)</i> Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Attachments: # <u>1</u> Proposed Order Ex A) (Sosland, Martin)
08/26/2020	<u>998</u> Transcript regarding Hearing Held 08/19/2020 (20 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 968 Hearing held on 8/19/2020. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, I. Karesh, Z. Annabel, and M. Hayward for Debtors; R. Patel and B. Shaw for Acis; P. Montgomery for Unsecured Creditors Committee; J. Bonds for J. Dondero; A. Clubock for UBS; T. Masherin for Crusader Redeemer Committee. Nonevidentiary status conference. Court heard and approved concept for a partial scheduling order, contemplating cross motions for summary judgment and setting thereon for 10/20/20 at 9:30 am to the extend this matter is not resolved in mediation. Mr. Pomeranz to draft order consistent with the terms of what was announced.)). Transcript to be made available to the public on 11/24/2020. (Rehling, Kathy)
08/27/2020	<u>999</u> Motion to file document under seal. <i>(Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch)</i> Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
08/27/2020	<u>1000</u> Certificate of service re: <i>1) Order Approving Joint Stipulation Regarding Modification to Order Approving Ordinary Course Professionals for Robert Half Legal; 2) Second Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.; and 3) Supplement to the Second Interim Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April 1, 2020 Through July 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>986</u> Order approving joint stipulation regarding modification to order approving ordinary course professionals for Robert Half Legal (RE: related document(s) <u>982</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/24/2020 (Okafor, M.), <u>987</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P., <u>988</u> Support/supplemental document <i>Supplement to Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere). (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP). (Kass, Albert)
08/27/2020	<u>1001</u> Certificate of service re: <i>Order Approving Second Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>990</u> Order approving second joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>987</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/25/2020 (Okafor, M.)). (Kass, Albert)
08/27/2020	



	<u>1002</u> Response unopposed to (related document(s): <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Chiarello, Annmarie)
08/27/2020	<u>1003</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>989</u> Order granting motion to appear pro hac vice adding Tracy M. O'Steen for Integrated Financial Associates, Inc. (related document <u>984</u> ) Entered on 8/25/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 08/27/2020. (Admin.)
08/27/2020	<u>1004</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>990</u> Order approving second joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>987</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 8/25/2020 (Okafor, M.)) No. of Notices: 1. Notice Date 08/27/2020. (Admin.)
08/28/2020	<u>1005</u> Order granting motion to seal certain of the exhibits to proofs of claim 190 and 191 of UBS Securities and UBS AG, London Branch (related document # <u>999</u> ) Entered on 8/28/2020. (Okafor, M.)
08/31/2020	<u>1006</u> Amended Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor Paul N. Adkins . (Rielly, Bill)
08/31/2020	<u>1007</u> Amended Notice of hearing ( <i>Amended Notice of Hearing on Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 10/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>868</u> , (Annable, Zachery)
08/31/2020	<u>1008</u> Adversary case 20–03107. Complaint by Highland Capital Management, L.P. against Patrick Daugherty. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Cover Sheet). Nature(s) of suit: 81 (Subordination of claim or interest). (Annable, Zachery)
08/31/2020	<b>1009 SEALED document regarding: Exhibit 20 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<b>1010 SEALED document regarding: Exhibit 21 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<b>1011 SEALED document regarding: Exhibit 22 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<b>1012 SEALED document regarding: Exhibit 23 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
08/31/2020	<b>1013 SEALED document regarding: Exhibit 24 to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court</b>

	<b>order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1005</u> Order on motion to seal). (Annable, Zachery)
09/01/2020	<u>1014</u> Debtor-in-possession monthly operating report for filing period July 1, 2020 to July 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/01/2020	<u>1015</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). (Annable, Zachery)
09/01/2020	<u>1016</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>917</u> Application for compensation ( <i>Sixth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from May 1, 2020 through May 31, 2020</i> ) for Hayward & Associate). (Annable, Zachery)
09/01/2020	<u>1017</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>931</u> Application for compensation ( <i>Seventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from June 1, 2020 through June 30, 2020</i> ) for Hayward & Assoc). (Annable, Zachery)
09/01/2020	<u>1018</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>934</u> Application for compensation <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 6/30/2020, Fee: \$328,185.72, Expenses: \$440.33.). (Hoffman, Juliana)
09/01/2020	<u>1019</u> Objection to (related document(s): <u>906</u> Objection to claim Filed by Debtor Highland Capital Management, L.P. filed by Creditor COLLIN COUNTY TAX ASSESSOR/COLLECTOR. (Lopez, Paul). MODIFIED to correct linkage on 9/2/2020 (Ecker, C.).
09/01/2020	<u>1020</u> Certificate of service re: <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>999</u> Motion to file document under seal. ( <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/02/2020	<u>1021</u> Order approving third joint stipulation extending response deadline to Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc (RE: related document(s) <u>1015</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 9/2/2020 (Okafor, M.)
09/02/2020	<u>1022</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>936</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from July 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, F). (Pomerantz, Jeffrey)
09/02/2020	<u>1023</u> Certificate of service re: <i>Order Granting Debtor's Motion for Entry of an Order Authorizing Filing Under Seal Certain of the Exhibits to Debtor's Objection to Proofs of Claim 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1005</u> Order granting motion to seal certain of the exhibits to proofs of claim 190 and 191 of UBS Securities and UBS AG, London Branch (related document <u>999</u> ) Entered on 8/28/2020. (Okafor, M.)). (Kass,

	Albert)
09/03/2020	<u>1024</u> Certificate of service re: <i>Amended Notice of Hearing on Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.; to be Held on October 14, 2020 at 1:30 PM (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1007</u> Amended Notice of hearing ( <i>Amended Notice of Hearing on Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 8/19/2020.). Hearing to be held on 10/14/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>868</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/04/2020	<u>1025</u> Motion to compromise controversy with Carey International, Inc.. ( <i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. Objections due by 9/28/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Settlement Agreement) (Annable, Zachery)
09/04/2020	<u>1026</u> Objection to (related document(s): <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
09/04/2020	<u>1027</u> Certificate of service re: <i>Third Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1015</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/05/2020	<u>1028</u> Witness and Exhibit List for <i>Hearing on September 10, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,5, <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time), <u>964</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorn, <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 202</i> , <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US), <u>975</u> Application for compensation ( <i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i> ). (Hayward, Melissa)
09/08/2020	<u>1029</u> Certificate of service re: <i>Order Approving Third Joint Stipulation Extending Response Deadline to Debtor's Objection to Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1021</u> Order approving third joint stipulation extending response deadline to

	Debtor's objection to proof of claim No. 93 of Integrated Financial Associates, Inc (RE: related document(s) <u>1015</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 9/2/2020 (Okafor, M.)). (Kass, Albert)
09/08/2020	<u>1030</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to July 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
09/09/2020	<u>1031</u> Motion to appear pro hac vice for James E. O'Neill. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
09/09/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28083098, amount \$ 100.00 (re: Doc# <u>1031</u> ). (U.S. Treasury)
09/09/2020	<u>1032</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>976</u> Notice of hearing ( <i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and</i>



	Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u> . (Annable, Zachery)
09/09/2020	<u>1033</u> Order granting motion to seal documents (related document # <u>997</u> ) Entered on 9/9/2020. (Okafor, M.)
09/09/2020	<u>1034</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>975</u> Application for compensation ( <i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i> ). (Annable, Zachery)
09/09/2020	<u>1035</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020 for Mercer (US)</i> ). (Annable, Zachery)
09/09/2020	<u>1036</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 202</i> ). (Annable, Zachery)
09/09/2020	<u>1037</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>964</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorn). (Annable, Zachery)
09/09/2020	<u>1038</u> Certificate of service re: <i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1025</u> Motion to compromise controversy with Carey International, Inc.. ( <i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. Objections due by 9/28/2020. (Attachments: # 1 Exhibit A—Proposed Order # 2 Exhibit B—Settlement Agreement) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/10/2020	<b>1039 SEALED document regarding: Exhibits B and C to the Objection to the Proof of Claim Filed by Redeemer Committee of the Highland Crusader Fund per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1033</u> Order on motion to seal). (Attachments: # <u>1</u> Part 2 # <u>2</u> Part 3 # <u>3</u> Part 4 # <u>4</u> Part 5 # <u>5</u> Part 6) (Sosland, Martin)
09/10/2020	<u>1040</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>969</u> Application for compensation <i>Sidley Austin, LLP's Ninth Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 7/1/2020 to 7/31/2020, Fee: \$531</i> ). (Hoffman, Juliana)
09/10/2020	<u>1041</u> Amended Notice ( <i>Amended Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>976</u> Notice of hearing ( <i>Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses</i>

	<p>of Estate Professionals) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation (<i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (<i>Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A–1 # 2 Exhibit A–2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>.) (Annable, Zachery)</p>
09/10/2020	<p>1061 Hearing held on 9/10/2020., Hearing continued (RE: related document(s)<u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s)<u>820</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) Continued Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>949</u>, (Appearances: J. Pomeranz, J. Morris, and J. O'Neill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Evidentiary hearing. Motion continued to 9/17/20 at 9:30 am.) (Edmond, Michael) (Entered: 09/14/2020)</p>
09/10/2020	<p>1062 Hearing held on 9/10/2020. (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moody's Analytics, Inc.; Quintairo, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income</p>

	<p>Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and J. O'Neill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Nonevidentiary hearing. Based on record presented by counsel, certain objections sustained, certain objections resolved, and certain ones carried to a date to be continued. Counsel to upload orders where appropriate and seeking resettings where appropriate.) (Edmond, Michael) (Entered: 09/14/2020)</p>
09/11/2020	<p><u>1042</u> Agreed Order regarding first omnibus objection to certain claims – administrative claim of Internal Revenue Service (RE: related document(s)<u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 9/11/2020 (Dugan, S.)</p>
09/11/2020	<p><u>1043</u> Order granting application for compensation (related document # <u>971</u>) granting for Jeffrey Nathan Pomerantz, fees awarded: \$3470794.50, expenses awarded: \$12205.15 Entered on 9/11/2020. (Dugan, S.)</p>
09/11/2020	<p><u>1044</u> Order granting application for compensation (related document # <u>975</u>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$615941.40, expenses awarded: \$2701.56 Entered on 9/11/2020. (Dugan, S.)</p>
09/11/2020	<p><u>1045</u> Order granting application for compensation (related document # <u>924</u>) granting for Foley Gardere, Foley &amp; Lardner LLP, fees awarded: \$63144.80, expenses awarded: \$833.49 Entered on 9/11/2020. (Ecker, C.)</p>
09/11/2020	<p><u>1046</u> Order granting application for compensation (related document # <u>972</u>) granting for Mercer (US) Inc., fees awarded: \$54029.98, expenses awarded: \$297.68 Entered on 9/11/2020. (Ecker, C.)</p>
09/11/2020	<p><u>1047</u> Order granting application for compensation (related document # <u>964</u>) granting for Hayward &amp; Associates PLLC, fees awarded: \$60210.00, expenses awarded: \$525.80 Entered on 9/11/2020. (Ecker, C.)</p>
09/11/2020	<p><u>1048</u> Order granting application for compensation (related document # <u>831</u>) granting for Official Committee of Unsecured Creditors, fees awarded: \$1573850.25, expenses awarded: \$22930.21 Entered on 9/11/2020. (Ecker, C.)</p>
09/11/2020	<p><u>1049</u> Request for transcript regarding a hearing held on 9/11/2020. The requested turn-around time is daily. (Edmond, Michael)</p>

09/11/2020	<u>1050</u> Order granting motion to appear pro hac vice adding James E. O'Neill for Highland Capital Management, L.P. (related document # <u>1031</u> ) Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1051</u> Order granting application for compensation (related document # <u>883</u> ) granting for FTI Consulting, Inc., fees awarded: \$1488533.40, expenses awarded: \$23515.26 Entered on 9/11/2020. (Ecker, C.)
09/11/2020	<u>1052</u> Motion to appear pro hac vice for Erica S. Weisgerber. Fee Amount \$100 Filed by Creditor HarbourVest et al (Driver, Vickie)
09/11/2020	<u>1053</u> Motion to appear pro hac vice for Daniel E. Stroik. Fee Amount \$100 Filed by Creditor HarbourVest et al (Driver, Vickie)
09/11/2020	<u>1054</u> Motion to appear pro hac vice for M. Natasha Labovitz. Fee Amount \$100 Filed by Creditor HarbourVest et al (Driver, Vickie)
09/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28091874, amount \$ 100.00 (re: Doc# <u>1052</u> ). (U.S. Treasury)
09/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28091874, amount \$ 100.00 (re: Doc# <u>1053</u> ). (U.S. Treasury)
09/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28091874, amount \$ 100.00 (re: Doc# <u>1054</u> ). (U.S. Treasury)
09/11/2020	<u>1055</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 7/1/2020 to 7/31/2020, Fee: \$182,490.32, Expenses: \$1,392.77. Filed by Attorney Juliana Hoffman Objections due by 10/2/2020. (Hoffman, Juliana)
09/11/2020	<u>1056</u> Certificate of service re: <i>1) Witness and Exhibit List for Hearing on September 10, 2020; 2) WebEx Meeting Invitation to participate electronically in the hearing on Thursday, September 10, 2020 at 2:30 p.m. Central Time before the Honorable Stacey G. Jernigan; and 3) Instructions for any counsel and parties who wish to participate in the Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1028</u> Witness and Exhibit List for Hearing on September 10, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,5, <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time), <u>964</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorn, <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 202</i> , <u>972</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020</i> for Mercer (US), <u>975</u> Application for compensation ( <i>Consolidated Monthly and First Interim Application of</i>



	<i>Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i>
09/11/2020	<u>1057</u> Response to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor HarbourVest et al. (Attachments: # <u>1</u> Appendix Part 1 # <u>2</u> Appendix Part 2 # <u>3</u> Appendix Part 3 # <u>4</u> Appendix Part 4) (Driver, Vickie). Modified linkage on 9/14/2020 (Rielly, Bill).
09/13/2020	<u>1058</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1044</u> Order granting application for compensation (related document <u>975</u> ) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$615941.40, expenses awarded: \$2701.56 Entered on 9/11/2020. (Dugan, S.)) No. of Notices: 1. Notice Date 09/13/2020. (Admin.)
09/13/2020	<u>1059</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1046</u> Order granting application for compensation (related document <u>972</u> ) granting for Mercer (US) Inc., fees awarded: \$54029.98, expenses awarded: \$297.68 Entered on 9/11/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 09/13/2020. (Admin.)
09/13/2020	<u>1060</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1050</u> Order granting motion to appear pro hac vice adding James E. O'Neill for Highland Capital Management, L.P. (related document <u>1031</u> ) Entered on 9/11/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 09/13/2020. (Admin.)
09/14/2020	<u>1063</u> Certificate of service re: <i>1) Motion for Admission Pro Hac Vice of James E. O'Neill to Represent Highland Capital Management, L.P.; and 2) Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1031</u> Motion to appear pro hac vice for James E. O'Neill. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1032</u> Notice (Notice of Agenda of Matters Scheduled for Hearing on September 10, 2020 at 2:30 p.m. (Central Time)) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>976</u> Notice of hearing (Omnibus Notice of Hearing on Second Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>831</u> Application for compensation <i>Sidley Austin LLP's Second Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2020 to 5/31/2020, Fee: \$1,573,850.25, Expenses: \$22,930.21. Filed by Objections due by 8/4/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F), <u>883</u> Application for compensation <i>Second Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2020 to 5/31/2020, Fee: \$1,488,533.4, Expenses: \$23,515.26. Filed by Objections due by 8/11/2020., <u>924</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from April, 2020 through July 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 4/1/2020 to 7/31/2020, Fee: \$87,931.00, Expenses: \$833.49. Filed by Attorney Holland N. O'Neil Objections due by 8/27/2020. (Attachments: # 1 Exhibit A – Invoices # 2 Proposed Order Exhibit B – Proposed Order) (O'Neil, Holland), <u>964</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Second Interim Application for Compensation and Reimbursement of Expenses for the Period from April 1, 2020 through June 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 4/1/2020 to 6/30/2020, Fee: \$60,570.00, Expenses: \$525.80. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—Invoices), <u>971</u> Application for compensation <i>Second Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from April 1, 2020 through July 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 4/1/2020 to 7/31/2020, Fee: \$3,475,794.50, Expenses: \$12,205.15. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/9/2020., <u>972</u> Application for compensation <i>Second Interim Application</i>

	<p><i>for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from March 1, 2020 through May 31, 2020 for Mercer (US) Inc., Consultant, Period: 3/1/2020 to 5/31/2020, Fee: \$54,029.98, Expenses: \$2,151.69. Filed by Consultant Mercer (US) Inc. Objections due by 9/9/2020., <u>975</u> Application for compensation (Consolidated Monthly and First Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period November 1, 2019 through June 30, 2020) for Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel, Period: 11/1/2019 to 6/30/2020, Fee: \$615,941.40, Expenses: \$2,701.56. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit B)). Hearing to be held on 9/10/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>964</u> and for <u>831</u> and for <u>975</u> and for <u>972</u> and for <u>971</u> and for <u>924</u> and for <u>883</u>.) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
09/16/2020	<p><u>1064</u> Transcript regarding Hearing Held 09/10/2020 (49 pages) RE: Fee Applications; Motion to Extend; Omnibus Objection to Claims. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1061</u> Hearing held on 9/10/2020., Hearing continued (RE: related document(s) <u>949</u> Motion to extend or limit the exclusivity period (RE: related document(s) <u>820</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) Continued Hearing to be held on 9/17/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>949</u>, (Appearances: J. Pomeranz, J. Morris, and J. O'Neill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Evidentiary hearing. Motion continued to 9/17/20 at 9:30 am.), <u>1062</u> Hearing held on 9/10/2020. (RE: related document(s) <u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by</p>

	Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and J. O'Neill for Debtor; M. Clemente for Official Unsecured Creditors Committee; R. Patel and B. Shaw for Acis; A. Clubok for UBS; T. Masherin, M. Hankin and M. Platt for Redeemer Committee; B. Assing for J. Dondero; L. Lambert for UST. Nonevidentiary hearing. Based on record presented by counsel, certain objections sustained, certain objections resolved, and certain ones carried to a date to be continued. Counsel to upload orders where appropriate and seeking resettings where appropriate.)). Transcript to be made available to the public on 12/15/2020. (Rehling, Kathy)
09/16/2020	<u>1065</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from July 1, 2020 through July 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
09/16/2020	<u>1066</u> Certificate of service re: <i>Documents Served on September 11, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1042</u> Agreed Order regarding first omnibus objection to certain claims – administrative claim of Internal Revenue Service (RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 9/11/2020 (Dugan, S.), <u>1048</u> Order granting application for compensation (related document <u>831</u> ) granting for Official Committee of Unsecured Creditors, fees awarded: \$1573850.25, expenses awarded: \$22930.21 Entered on 9/11/2020. (Ecker, C.), <u>1051</u> Order granting application for compensation (related document <u>883</u> ) granting for FTI Consulting, Inc., fees awarded: \$1488533.40, expenses awarded: \$23515.26 Entered on 9/11/2020. (Ecker, C.)). (Kass, Albert)
09/16/2020	<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A – Proposed Order) (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) (Rielly, Bill). (Entered: 10/19/2020)
09/17/2020	<u>1067</u> Hearing held and conduct as as Status Conference on 9/17/2020. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz for Debtor; M. Clemente for Unsecured Creditors Committee; R. Patel for Acis. Nonevidentiary status conference and continued hearing on Debtors Exclusivity Motion. Court heard reports of continuation of negotiations with regard to Mr. Dondero and between Committee and Debtor with regard to Plan issues. Debtor will file a revised (unsealed) disclosure statement and plan on 9/21/20 and court orally agreed to extension of exclusivity for solicitation through 12/4/20. Court approved certain deadlines suggested for a motion to establish voting procedures (with a 10/22/20 hearing for such motion and the disclosure statement) and court orally approved using 10/20/20 for a hearing on two Rule 9019 motions that will be filed by 9/23/20 with regard to Acis settlement and Redeemer Committee settlement). Counsel to upload order(s).) (Edmond, Michael)
09/17/2020	<u>1068</u> Order granting motion to appear pro hac vice adding Erica S. Weisgerber for HarbourVest et al (related document # <u>1052</u> ) Entered on 9/17/2020. (Okafor, M.)
09/17/2020	<u>1069</u> Order granting motion to appear pro hac vice adding Daniel E. Stroik for HarbourVest et al (related document # <u>1053</u> ) Entered on 9/17/2020. (Okafor, M.)
09/17/2020	<u>1070</u> Order granting motion to appear pro hac vice adding M. Natasha Labovitz for HarbourVest et al (related document # <u>1054</u> ) Entered on 9/17/2020. (Okafor, M.)

09/17/2020	<u>1071</u> Certificate of service re: <i>Summary Cover Sheet and Ninth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from July 1, 2020 to and Including July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1055</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 7/1/2020 to 7/31/2020, Fee: \$182,490.32, Expenses: \$1,392.77. Filed by Attorney Juliana Hoffman Objections due by 10/2/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
09/18/2020	<u>1072</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 8/1/2020 to 8/31/2020, Fee: \$8,046.00, Expenses: \$31.90. Filed by Attorney Holland N. O'Neil Objections due by 10/9/2020. (Attachments: # <u>1</u> Exhibit A) (O'Neil, Holland)
09/18/2020	<u>1073</u> Order setting Disclosure Statement hearing and deadline to object (RE: related document(s) <u>945</u> Disclosure statement filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>945</u> . The deadline for any party wishing to object to the Disclosure Statement shall be October 19, 2020 at 5:00 p.m. Entered on 9/18/2020 (Okafor, M.)
09/19/2020	<u>1074</u> Application for compensation <i>Sidley Austin LLP's Tenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 8/1/2020 to 8/31/2020, Fee: \$467,533.08, Expenses: \$2,448.22. Filed by Attorney Juliana Hoffman Objections due by 10/13/2020. (Hoffman, Juliana)
09/19/2020	<u>1075</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1068</u> Order granting motion to appear pro hac vice adding Erica S. Weisgerber for HarbourVest et al (related document <u>1052</u> ) Entered on 9/17/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 09/19/2020. (Admin.)
09/19/2020	<u>1076</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1069</u> Order granting motion to appear pro hac vice adding Daniel E. Stroik for HarbourVest et al (related document <u>1053</u> ) Entered on 9/17/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 09/19/2020. (Admin.)
09/19/2020	<u>1077</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1070</u> Order granting motion to appear pro hac vice adding M. Natasha Labovitz for HarbourVest et al (related document <u>1054</u> ) Entered on 9/17/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 09/19/2020. (Admin.)
09/21/2020	<u>1078</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>810</u> Motion for protective order ( <i>Debtor's Motion for Entry of (i) a Protective Order, or, in the Alternative, (ii) an Order Directing the Debtor to Comply with Certain Discovery Demands Tendered by the Official Committee of Unsecured Creditors Pursuant to Federal Rules of Bankruptcy Procedure 7026 and 7034</i> ) Filed by Debtor Highland Capital Management, L.P.) Responses due by 10/5/2020. (Ecker, C.)
09/21/2020	<u>1079</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan). (Annable, Zachery)
09/21/2020	<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # <u>1</u> Exhibit A—First Amended Plan of Reorganization # <u>2</u> Exhibit B—Organizational Chart)(Annable, Zachery)
09/21/2020	<u>1081</u> Notice of hearing ( <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland



	Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # <u>1</u> Exhibit A—First Amended Plan of Reorganization # <u>2</u> Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , (Annable, Zachery)
09/22/2020	<u>1082</u> Amended Schedules: E/F, with Summary of Assets and Liabilities (Adding additional creditor or creditors) fee Amount \$31 (with Declaration Under Penalty of Perjury for Non-Individual Debtors,). Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1—Amended Schedules of Assets and Liabilities – Schedule E-F) (Annable, Zachery)
09/22/2020	Receipt of filing fee for Schedules(19-34054-sgj11) [misc,schedall] ( 31.00). Receipt number 28122241, amount \$ 31.00 (re: Doc# <u>1082</u> ). (U.S. Treasury)
09/22/2020	<u>1083</u> Certificate of service re: <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to July 31, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1030</u> Notice (generic)). (Annable, Zachery)
09/22/2020	<u>1084</u> Certificate of service re: Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from July 1, 2020 through July 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1065</u> Notice (generic)). (Annable, Zachery)
09/22/2020	<u>1085</u> Certificate of service re: Orders of the Court filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1043</u> Order on application for compensation, <u>1044</u> Order on application for compensation, <u>1045</u> Order on application for compensation, <u>1046</u> Order on application for compensation, <u>1047</u> Order on application for compensation, <u>1050</u> Order on motion to appear pro hac vice). (Annable, Zachery)
09/22/2020	<u>1086</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1073</u> Order to set hearing, <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement, <u>1081</u> Notice of hearing). (Annable, Zachery)
09/23/2020	<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
09/23/2020	<u>1088</u> Declaration re: ( <i>Declaration of Gregory V. Demo in Support of the Debtor's Motion for Entry of an Order Approving Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Attachments: # <u>1</u> Exhibit 1—Settlement Agreement # <u>2</u> Exhibit 2—Release) (Annable, Zachery)
09/23/2020	<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
09/23/2020	<u>1090</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland</i>

	<i>Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6) (Annable, Zachery)
09/23/2020	<u>1091</u> Motion to file document under seal. ( <i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
09/24/2020	<u>1092</u> Order further extending the debtor's exclusive period for solicitation of acceptances of a chapter 11 plan <u>949</u> Motion to extend or limit the exclusivity period. Entered on 9/24/2020. (Ecker, C.)
09/24/2020	<u>1093</u> Request for transcript regarding a hearing held on 9/17/2020. The requested turn-around time is 3-day expedited. (Edmond, Michael)
09/24/2020	<u>1094</u> Application for compensation <i>Eleventh Monthly Application for Compensation and for Reimbursement of Expenses for the Period from August 1, 2020 through August 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 8/31/2020, Fee: \$672,815.00, Expenses: \$3,428.14. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/15/2020. (Pomerantz, Jeffrey)
09/24/2020	<u>1095</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u> , (Annable, Zachery)
09/24/2020	<u>1096</u> Certificate of service re: <i>1) Cover Sheet and Tenth Monthly Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from August 1, 2020 Through August 31, 2020; and 2) Summary Cover Sheet and Tenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from August 1, 2020 to and Including August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1072</u> Application for compensation <i>Tenth Monthly Application for Compensation and for Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 8/1/2020 to 8/31/2020, Fee: \$8,046.00, Expenses: \$31.90. Filed by Attorney Holland N. O'Neil Objections due by 10/9/2020. (Attachments: # 1 Exhibit A) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, <u>1074</u> Application for compensation <i>Sidley Austin LLP's Tenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 8/1/2020 to 8/31/2020, Fee: \$467,533.08, Expenses: \$2,448.22. Filed by Attorney Juliana Hoffman Objections due by 10/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
09/24/2020	<u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P</i> Filed by Claims

	<p>Agent Kurtzman Carson Consultants LLC (related document(s)<u>1081</u> Notice of hearing (<i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/24/2020	<p><u>1098</u> Certificate of service re: <i>Notice of Filing of Debtor's Amended Schedules</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1082</u> Amended Schedules: E/F, with Summary of Assets and Liabilities (Adding additional creditor or creditors) fee Amount \$31 (with Declaration Under Penalty of Perjury for Non-Individual Debtors,). Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit 1—Amended Schedules of Assets and Liabilities – Schedule E–F) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/24/2020	<p><u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # <u>1</u> Exhibit Declaration of Patrick Daugherty in Support of Motion # <u>2</u> Service List) (Kathman, Jason)</p>
09/24/2020	<p>Receipt of filing fee for Motion for relief from stay(19-34054-sgj11) [motion,mrlfsty] ( 181.00). Receipt number 28129975, amount \$ 181.00 (re: Doc# <u>1099</u>). (U.S. Treasury)</p>
09/25/2020	<p><u>1100</u> Notice of hearing filed by Creditor Patrick Daugherty (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Preliminary hearing to be held on 10/22/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Service List) (Clontz, Megan)</p>
09/25/2020	<p><u>1101</u> Transcript regarding Hearing Held 09/17/2020 (13 pages) RE: Status Conference, Objection to Proof of Claim, Motion to Extend Exclusivity. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 12/24/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1067</u> Hearing held and conduct as as Status Conference on 9/17/2020. (RE: related document(s)<u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz for Debtor; M. Clemente for Unsecured Creditors Committee; R. Patel for Acis. Nonevidentiary status conference and continued hearing on Debtors Exclusivity Motion. Court heard reports of continuation of negotiations with regard to Mr. Dondero and between Committee and Debtor with regard to Plan issues. Debtor will file a revised (unsealed) disclosure statement and plan on 9/21/20 and court orally agreed to extension of exclusivity for solicitation through 12/4/20. Court approved certain deadlines suggested for a motion to establish voting procedures (with a 10/22/20 hearing for such motion and the disclosure statement) and court orally approved using 10/20/20 for a hearing on two Rule 9019 motions that will be filed by 9/23/20 with regard to Acis settlement and Redeemer Committee settlement). Counsel to upload order(s)). Transcript to be made available to the public on 12/24/2020. (Rehling, Kathy)</p>
09/25/2020	<p><u>1102</u> Amended Notice of hearing filed by Creditor Patrick Daugherty (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit</p>

	Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Preliminary hearing to be held on 10/22/2020 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Service List) (Clontz, Megan)
09/25/2020	<u>1103</u> Certificate of service re: Order Further Extending the Debtor's Exclusive Period for Solicitation of Acceptances of a Chapter 11 Plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1092</u> Order on motion to extend/shorten time). (Annable, Zachery)
09/25/2020	<u>1104</u> Certificate of service re: Eleventh Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1094</u> Application for compensation <i>Eleventh Monthly Application for Compensation and for Reimbursement of Expenses for the Period from August 1, 2020 through August 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 8/31/). (Annable, Zachery)
09/25/2020	<u>1105</u> Omnibus Response opposed to (related document(s): <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund) ( <i>UBS's Omnibus Response to Objections to the UBS Proofs of Claim</i> ) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/9/2020. (Attachments: # 1 Exhibit 18 # 2 Exhibit 19) filed by Debtor Highland Capital Management, L.P., <u>933</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch.. Filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # 1 Exhibit Exhibit 1 (slip page – to be filed under seal upon order from Court)) # 2 Exhibit Exhibit 2 (slip page – to be filed under seal upon order from Court) # 3 Exhibit Exhibit 3 (slip page – to be filed under seal upon order from Court) # 4 Exhibit Exhibit 4 # 5 Exhibit Exhibit 5 # 6 Exhibit Exhibit 6 (slip page – to be filed under seal upon order from Court) # 7 Exhibit Exhibit 7 (slip page – to be filed under seal upon order from Court) # 8 Exhibit Exhibit 8 # 9 Exhibit Exhibit 9 (slip page – to be filed under seal upon order from Court) # 10 Exhibit Exhibit 10 # 11 Exhibit Exhibit 11 # 12 Exhibit Exhibit 12 # 13 Exhibit Exhibit 13 # 14 Exhibit Exhibit 14 # 15 Exhibit Exhibit 15 # 16 Exhibit Exhibit 16 (slip page – to be filed under seal upon order from Court) # 17 Exhibit Exhibit 17 # 18 Exhibit Exhibit 18 # 19 Exhibit Exhibit 19 # 20 Exhibit Exhibit 20 (slip page – to be filed under seal upon order from Court) # 21 Exhibit Exhibit 21 (slip page – to be filed under seal upon order from Court) # 22 Exhibit Exhibit 22 (slip page – to be filed under seal upon order from Court)) filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Sosland, Martin)
09/25/2020	<u>1106</u> Exhibit List to <i>UBS's Omnibus Response to Objections to the UBS Proof of Claim</i> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1105</u> Response to objection to claim). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> 42 # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44) (Sosland, Martin)
09/25/2020	<u>1107</u> Motion to file document under seal. ( <i>UBS's Motion for Leave to file Documents Under Seal with UBS's Omnibus Response to Objections to the UBS Proof of Claim</i> Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
09/28/2020	<u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First</i>



	<p><i>Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit 1—Proposed Order # <u>2</u> Exhibit 1—A—Forms of Ballots # <u>3</u> Exhibit 1—B—Notice of Confirmation Hearing # <u>4</u> Exhibit 1—C—Notice of Non-Voting Status # <u>5</u> Exhibit 1—D—Notice of Assumption) (Annable, Zachery)</p>
09/28/2020	<p><u>1109</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit 1—Proposed Order # <u>2</u> Exhibit 1—A—Forms of Ballots # <u>3</u> Exhibit 1—B—Notice of Confirmation Hearing # <u>4</u> Exhibit 1—C—Notice of Non-Voting Status # <u>5</u> Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, (Annable, Zachery)</p>
09/28/2020	<p><u>1110</u> Certificate of service re: <i>1) Debtors' Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith; and 2) Declaration of Gregory V. Demo in Support of the Debtors' Motion for Entry of an Order Approving Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1088</u> Declaration re: (<i>Declaration of Gregory V. Demo in Support of the Debtor's Motion for Entry of an Order Approving Settlement with (a) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (b) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (c) Acis Capital Management, L.P. (Claim No. 159), and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Attachments: # <u>1</u> Exhibit 1—Settlement Agreement # <u>2</u> Exhibit 2—Release) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/29/2020	<p><u>1111</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1025</u> Motion to compromise controversy with Carey International, Inc.. (<i>Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith</i>)). (Annable, Zachery)</p>
09/29/2020	<p><u>1112</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Conf, <u>1109</u> Notice of hearing</i>). (Annable, Zachery)</p>
09/29/2020	<p><u>1113</u> Certificate of service re: <i>Documents Served on or Before September 24, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor</p>

	<p>Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1090</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). ). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) filed by Debtor Highland Capital Management, L.P., <u>1091</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1095</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/30/2020	<u>1114</u> Motion to appear pro hac vice for Elissa A. Wagner. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
09/30/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28143856, amount \$ 100.00 (re: Doc# <u>1114</u> ). (U.S. Treasury)
09/30/2020	<u>1115</u> Debtor-in-possession monthly operating report for filing period August 1, 2020 to August 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/30/2020	<u>1116</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to August 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
10/01/2020	<u>1117</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). (Annable, Zachery)
10/02/2020	<u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Hayward, Melissa)
10/02/2020	<u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020. (Montgomery, Paige)

10/02/2020	<u>1120</u> Motion for expedited hearing(related documents <u>1119</u> Motion to extend/shorten time) Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
10/05/2020	<u>1121</u> Response opposed to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
10/05/2020	<u>1122</u> Agreed Order granting <u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1123</u> Order granting motion to compromise controversy with Carey International, Inc.. (Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. (related document # <u>1025</u> ) Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1124</u> Order granting motion to appear pro hac vice adding Elissa A. Wagner for Highland Capital Management, L.P. (related document # <u>1114</u> ) Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1125</u> Order granting motion to seal exhibits (related document # <u>1091</u> Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. ) Entered on 10/5/2020. (Okafor, M.)
10/05/2020	<u>1126</u> Order approving stipulation regarding Proof of Claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>1117</u> Stipulation filed by Debtor Highland Capital Management, L.P.). The hearing on the Debtors Objection to the IFA Claim currently scheduled to be held on October 14, 2020 at 1:30 p.m. (Central Time) is hereby CANCELLED. Entered on 10/5/2020 (Okafor, M.)
10/05/2020	<u>1127</u> <b>SEALED document regarding: Exhibit B—Cornerstone Monetization Schedule per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery)
10/05/2020	<u>1128</u> <b>SEALED document regarding: Exhibit 2 – Partial Final Award dated March 6, 2019 per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery) Modified docket entry text on 10/5/2020 in include exhibit number. (Ellison, T.)
10/05/2020	<u>1129</u> <b>SEALED document regarding: Exhibit 3—Disposition of Application of Modification of Award dated March 14, 2019 per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery)
10/05/2020	<u>1130</u> <b>SEALED document regarding: Exhibit 4—Final Award dated April 29, 2019 per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1125</u> Order on motion to seal). (Annable, Zachery)
10/06/2020	<u>1131</u> Order granting motion to seal documents (related document # <u>1107</u> ) Entered on 10/6/2020. (Okafor, M.)
10/06/2020	

	<u>1132</u> INCORRECT ENTRY – REQUESTER CANCELLED REQUEST. Request for transcript regarding a hearing held on 9/23/2020. The requested turn-around time is 3-day expedited. (Edmond, Michael) Modified on 10/14/2020 (Edmond, Michael).
10/06/2020	<b>1133 SEALED document regarding: UBS's Omnibus Response to Objections to the UBS Proofs of Claim per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1131</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 2 # <u>2</u> Exhibit 3 # <u>3</u> Exhibit 4 # <u>4</u> Exhibit 5 # <u>5</u> Exhibit 6 # <u>6</u> Exhibit 8 # <u>7</u> Exhibit 9 # <u>8</u> Exhibit 10 # <u>9</u> Exhibit 11 # <u>10</u> Exhibit 12 # <u>11</u> Exhibit 14 # <u>12</u> Exhibit 18 # <u>13</u> Exhibit 22 # <u>14</u> Exhibit 23 # <u>15</u> Exhibit 24 # <u>16</u> Exhibit 25 # <u>17</u> Exhibit 26 # <u>18</u> Exhibit 28 # <u>19</u> Exhibit 29 # <u>20</u> Exhibit 32 # <u>21</u> Exhibit 34 # <u>22</u> Exhibit 35 # <u>23</u> Exhibit 36 # <u>24</u> Exhibit 37 # <u>25</u> Exhibit 38 # <u>26</u> Exhibit 39 # <u>27</u> Exhibit 40 # <u>28</u> Exhibit 41 # <u>29</u> Exhibit 42 # <u>30</u> Exhibit 43) (Sosland, Martin)
10/06/2020	<u>1134</u> Motion to appear pro hac vice for Joseph L. Christensen. Fee Amount \$100 Filed by Creditor Patrick Daugherty (Kathman, Jason)
10/06/2020	<u>1135</u> Motion to appear pro hac vice for Thomas A. Uebler. Fee Amount \$100 Filed by Creditor Patrick Daugherty (Kathman, Jason)
10/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28159068, amount \$ 100.00 (re: Doc# <u>1134</u> ). (U.S. Treasury)
10/06/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28159068, amount \$ 100.00 (re: Doc# <u>1135</u> ). (U.S. Treasury)
10/06/2020	<u>1136</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020.). Hearing to be held on 10/8/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1119</u> , (Hoffman, Juliana)
10/06/2020	<u>1137</u> Status Conference Hearing held on 10/6/2020. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and R. Feinstein for Debtor; A. Clubok, S. Tomkowiak, and J. Bjork for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; M. Clemente for UCC. Nonevidentiary status conference. Court approved a schedule for motions for summary judgment and Rule 3018 motions to estimate claim of UBS. Counsel to upload order. Hearing to be 11/20/20 at 9:30 am.)(Edmond, Michael)
10/06/2020	<u>1138</u> Certificate of service re: <i>1) Motion for Admission Pro Hac Vice for Elissa A. Wagner to Represent Highland Capital Management, L.P.; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1114</u> Motion to appear pro hac vice for Elissa A. Wagner. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1116</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to August 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by



	Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/06/2020	<u>1139</u> Certificate of service re: <i>1) Webex Meeting Invitation to participate electronically in the hearing on October 6, 2020 at 1:30 p.m. Central Time before the Honorable Stacey G. Jernigan; 2) Instructions for any counsel and parties who wish to participate in the Hearing; and 3) Stipulation Regarding Proof of Claim No. 93 of Integrated Financial Associates, Inc.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1117</u> Stipulation by Highland Capital Management, L.P. and Integrated Financial Associates, Inc.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>868</u> Objection to claim). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/06/2020	<u>1140</u> Request for transcript regarding a hearing held on 10/6/2020. The requested turn-around time is daily (Jeng, Hawaii) (Entered: 10/07/2020)
10/07/2020	<u>1141</u> Objection to (related document(s): <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
10/07/2020	<u>1142</u> Application for compensation ( <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$29,785.00, Expenses: \$980.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A July 2020 Invoice) (Annable, Zachery)
10/07/2020	<u>1143</u> Certificate of service re: <i>Agreed Motion to Extend the Deadline to Assume or Reject Unexpired Nonresidential Real Property Lease</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/07/2020	<u>1144</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1124</u> Order granting motion to appear pro hac vice adding Elissa A. Wagner for Highland Capital Management, L.P. (related document <u>1114</u> ) Entered on 10/5/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/07/2020. (Admin.)
10/08/2020	<u>1145</u> Transcript regarding Hearing Held 10/06/2020 (58 pages) RE: Status Conference on Objection to Claim. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/6/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1137</u> Status Conference Hearing held on 10/6/2020. (RE: related document(s) <u>928</u> Objection to claim(s) of Creditor(s) UBS Securities LLC and UBS AG, London Branch, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and R. Feinstein for Debtor; A. Clubok, S. Tomkowiak, and J. Bjork for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; M. Clemente for UCC. Nonevidentiary status conference. Court approved a schedule for motions for summary judgment and Rule 3018 motions to estimate claim of UBS. Counsel to upload order. Hearing to be 11/20/20 at 9:30 am.)). Transcript to be made available to the public on 01/6/2021. (Rehling, Kathy)
10/08/2020	<u>1146</u> Order granting motion to appear pro hac vice adding Joseph L. Christensen for Patrick Daugherty (related document # <u>1134</u> ) Entered on 10/8/2020. (Okafor, M.)
10/08/2020	

	<u>1147</u> Order granting motion to appear pro hac vice adding Thomas A. Uebler for Patrick Daugherty (related document # <u>1135</u> ) Entered on 10/8/2020. (Okafor, M.)
10/08/2020	<u>1148</u> Objection to (related document(s): <u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/08/2020	<u>1149</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's (I) Objection to Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay and (II) Cross–Motion to Extend the Automatic Stay to, or Otherwise Enjoin, the Delaware Cases</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1148</u> Objection). (Attachments: # <u>1</u> Exhibit 1) (Annable, Zachery)
10/08/2020	<u>1150</u> Adversary case 20–03128. Complaint by Highland Capital Management, L.P. against Patrick Hagaman Daugherty. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Cover Sheet). Nature(s) of suit: 71 (Injunctive relief – reinstatement of stay). (Annable, Zachery)
10/08/2020	<u>1151</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1055</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 7/1/2020 to 7/31/2020, Fee: \$182,490.32, Expenses: \$1,392.77.). (Hoffman, Juliana)
10/08/2020	<u>1152</u> Certificate of service re: <i>Documents Served on October 5, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1120</u> Motion for expedited hearing(related documents <u>1119</u> Motion to extend/shorten time) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1122</u> Agreed Order granting <u>1118</u> Motion to extend time to Assume or Reject Unexpired Nonresidential Real Property Lease Filed by Debtor Highland Capital Management, L.P. Entered on 10/5/2020. (Okafor, M.), <u>1123</u> Order granting motion to compromise controversy with Carey International, Inc.. (Motion of the Debtor for Entry of an Order Approving Settlement with Carey International, Inc. [Claim No. 68] and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. (related document <u>1025</u> ) Entered on 10/5/2020. (Okafor, M.), <u>1124</u> Order granting motion to appear pro hac vice adding Elissa A. Wagner for Highland Capital Management, L.P. (related document <u>1114</u> ) Entered on 10/5/2020. (Okafor, M.), <u>1125</u> Order granting motion to seal exhibits (related document <u>1091</u> Motion for Entry of an Order Authorizing Filing under Seal Certain of the Exhibits to the Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. ) Entered on 10/5/2020. (Okafor, M.), <u>1126</u> Order approving stipulation regarding Proof of Claim No. 93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>1117</u> Stipulation filed by Debtor Highland Capital Management, L.P.). The hearing on the Debtors Objection to the IFA Claim currently scheduled to be held on October 14, 2020 at 1:30 p.m. (Central Time) is hereby CANCELLED. Entered on 10/5/2020 (Okafor, M.). (Kass, Albert)
10/08/2020	<u>1153</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor The Dugaboy Investment Trust. (Attachments: # <u>1</u> Ex. A – Loan Agreement # <u>2</u> Ex.B – Account Summary) (Assink, Bryan)
10/08/2020	<u>1164</u> Hearing held on 10/8/2020. (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors.) (Appearances: P.

	Montgomery for Official Committee of Unsecured Creditors; J. Kane for CLO Holdco. Nonevidentiary hearing. Announcement of an agreed 60-day extension. Counsel to upload order.) (Edmond, Michael) (Entered: 10/13/2020)
10/09/2020	<u>1154</u> Motion for leave to <i>Amend Certain Proofs of Claim</i> Filed by Creditor The Dugaboy Investment Trust Objections due by 10/30/2020. (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan)
10/09/2020	<u>1155</u> Order sustaining first omnibus objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims (RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). (Attachments: # <u>1</u> Schedules 1 – 6) Entered on 10/9/2020 (Okafor, M.)
10/09/2020	<u>1156</u> Certificate of service re: <i>Notice of Hearing on Pension Danmarks Motion for Relief from the Automatic Stay and Extending the Objection Deadline</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1136</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020.). Hearing to be held on 10/8/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1119</u> , filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
10/09/2020	<u>1157</u> Certificate of service re: <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1142</u> Application for compensation ( <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 7/31/2020, Fee: \$29,785.00, Expenses: \$980.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A July 2020 Invoice) filed by Other Professional Hayward & Associates PLLC). (Kass, Albert)
10/09/2020	<u>1158</u> Certificate of service re: <i>1) Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay; and 2) Declaration of John A. Morris in Support of the Debtor's (I) Objection to Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay and (II) Cross-Motion to Extend the Automatic Stay to, or Otherwise Enjoin, the Delaware Cases</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1148</u> Objection to (related document(s): <u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1149</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's (I) Objection to Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay and (II) Cross-Motion to Extend the Automatic Stay to, or Otherwise Enjoin, the Delaware Cases</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1148</u> Objection). (Attachments: # 1 Exhibit 1) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/09/2020	<u>1159</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing ( <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2

	Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P., <u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing ( <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
10/09/2020	<u>1160</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 8/1/2020 to 8/31/2020, Fee: \$198,616.32, Expenses: \$0. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/30/2020. (Hoffman, Juliana)
10/10/2020	<u>1161</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1146</u> Order granting motion to appear pro hac vice adding Joseph L. Christensen for Patrick Daugherty (related document <u>1134</u> ) Entered on 10/8/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/10/2020. (Admin.)
10/10/2020	<u>1162</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1147</u> Order granting motion to appear pro hac vice adding Thomas A. Uebler for Patrick Daugherty (related document <u>1135</u> ) Entered on 10/8/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/10/2020. (Admin.)
10/12/2020	<u>1163</u> Order setting hearing on any summary judgment motion and any 3018 Motion filed in accordance with this Order (RE: related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>928</u> , Entered on 10/12/2020 (Okafor, M.)
10/13/2020	<u>1165</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 1 Transferors: Stanton Advisors LLC (Amount \$10,000.00) To Argo Partners. Filed by Creditor Argo Partners. (Gold, Matthew)
10/13/2020	<u>1166</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Lynn Pinker Cox & Hurst, LLP (Claim No. 148, Amount \$507,430.34) To MCS Capital LLC c/o STC, Inc.. Filed by Creditor Argo Partners. (Gold, Matthew)
10/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19–34054–sgj11) [claims,trclmagt] ( 25.00). Receipt number 28176112, amount \$ 25.00 (re: Doc# <u>1165</u> ). (U.S. Treasury)
10/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19–34054–sgj11) [claims,trclmagt] ( 25.00). Receipt number 28176112, amount \$ 25.00 (re: Doc# <u>1166</u> ). (U.S. Treasury)
10/13/2020	<u>1167</u> Notice to take deposition of James P. Seery, Jr., CEO, Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/14/2020	<u>1168</u> Order granting extension of time to file an adversary proceeding against CLO Holdo, Ltd (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) filed by Creditor Committee Official Committee of Unsecured Creditors. Modified to correct linkage on 11/3/2020 (Ecker, C.).



10/14/2020	<u>1169</u> Agreed Supplemental Order authorizing the retention and employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (RE: related document(s) <u>763</u> Order on application to employ). Entered on 10/14/2020 (Okafor, M.)
10/14/2020	<u>1170</u> Certificate of service re: <i>Agreed Supplemental Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1169</u> Order (generic)). (Annable, Zachery)
10/14/2020	<u>1171</u> Notice to take deposition of Professor Nancy B. Rapaport filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/14/2020	<u>1172</u> Certificate of service re: <i>Order Sustaining First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1155</u> Order sustaining first omnibus objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims (RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). (Attachments: # 1 Schedules 1 – 6) Entered on 10/9/2020 (Okafor, M.)). (Kass, Albert)
10/15/2020	<u>1173</u> Notice ( <i>Notice of Filing of (I) Liquidation Analysis and (II) Financial Projections as Exhibits to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). (Attachments: # 1 Exhibit C/D to Debtor's Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.) (Annable, Zachery)
10/15/2020	<u>1174</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1074</u> Application for compensation <i>Sidley Austin LLP's Tenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 8/1/2020 to 8/31/2020, Fee: \$467.). (Hoffman, Juliana)
10/15/2020	<u>1175</u> Witness and Exhibit List filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Chiarello, Annmarie)
10/16/2020	<u>1176</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1173</u> Notice (generic)). (Annable, Zachery)
10/16/2020	<u>1177</u> Response opposed to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
10/16/2020	<u>1178</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). ). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) (Annable, Zachery)

10/16/2020	<u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
10/16/2020	<u>1180</u> INCORRECT ENTRY: EVENT CODE. SEE DOCUMENT 1214. Motion to disallow claims ( <i>Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery) Modified on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1181</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch)). (Annable, Zachery). Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1182</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEES MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
10/16/2020	<u>1183</u> INCORRECT ENTRY: EVENT CODE. SEE DOCUMENT 1215 AND 1216. Motion to disallow claims <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Proposed Order) (Platt, Mark) Modified on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1184</u> Support/supplemental document ( <i>Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19) (Annable, Zachery). Related document(s) <u>1214</u> Motion for summary judgment filed by Debtor Highland Capital Management, L.P.. Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1185</u> Declaration re: ( <i>Declaration of Elissa A. Wagner in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. ). (Annable, Zachery). Modified linkage on 10/19/2020 (Rielly, Bill).
10/16/2020	<u>1186</u> Brief in support filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds'). (Platt, Mark). Modified linkage on 10/19/2020 (Rielly, Bill).

10/16/2020	<u>1187</u> Motion to file document under seal. ( <i>Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
10/16/2020	<u>1188</u> Motion to file document under seal. ( <i>UBS's Motion for Leave to File Documents Under Seal with (I) the Objection and (II) the Declaration of W. Kevin Moentmann in Support of the Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72) and (B) the Highland Crusader Funds (Claim No. 81)</i> ) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Attachments: # <u>1</u> Proposed Order) (Sosland, Martin)
10/16/2020	<u>1189</u> INCORRECT ENTRY: Attorney to refile. Support/supplemental document <i>APPENDIX TO REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1183</u> Motion to disallow claims <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LOND, <u>1186</u> Brief</i> ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 (slip page – to be filed under seal upon order from Court) # <u>17</u> Exhibit 17 (slip page) # <u>18</u> Exhibit 18 (slip page) # <u>19</u> Exhibit 19 (slip page) # <u>20</u> Exhibit 20 (slip page) # <u>21</u> Exhibit 21 (slip page) # <u>22</u> Exhibit 22 (slip page) # <u>23</u> Exhibit 23 (slip page) # <u>24</u> Exhibit 24 (slip page) # <u>25</u> Exhibit 25 (slip page) # <u>26</u> Exhibit 26 (slip page) # <u>27</u> Exhibit 27 (slip page) # <u>28</u> Exhibit 28 (slip page) # <u>29</u> Exhibit 29 (slip page)) (Platt, Mark) Modified on 10/19/2020 (Ecker, C.).
10/16/2020	<u>1190</u> Objection to (related document(s): <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Attachments: # <u>1</u> A–C) (Sosland, Martin)
10/16/2020	<u>1191</u> Response opposed to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Interested Party Highland CLO Funding, Ltd.. (Maloney, Mark)
10/16/2020	<u>1192</u> Declaration re: <i>W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81)</i> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1190</u> Objection). (Attachments: # <u>1</u> Exhibit 1–6 # <u>2</u> Attachments A–C) (Sosland, Martin)
10/16/2020	<u>1193</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # <u>1</u> Exhibit A—Proposed Order)). Hearing to be held on 12/14/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1179</u> , (Annable, Zachery)

10/16/2020	<p><u>1194</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Attachments: # <u>1</u> Dondero Ex. A # <u>2</u> Dondero Ex. B # <u>3</u> Dondero Ex. C # <u>4</u> Dondero Ex. D # <u>5</u> Dondero Ex. E # <u>6</u> Dondero Ex. F # <u>7</u> Dondero Ex. G # <u>8</u> Dondero Ex. H # <u>9</u> Dondero Ex. I # <u>10</u> Dondero Ex. J # <u>11</u> Dondero Ex. K # <u>12</u> Dondero Ex. L # <u>13</u> Dondero Ex. M # <u>14</u> Dondero Ex. N # <u>15</u> Dondero Ex. O # <u>16</u> Dondero Ex. P # <u>17</u> Dondero Ex. Q # <u>18</u> Dondero Ex. R # <u>19</u> Dondero Ex. S # <u>20</u> Dondero Ex. T # <u>21</u> Dondero Ex. U # <u>22</u> Dondero Ex. V # <u>23</u> Dondero Ex. W # <u>24</u> Dondero Ex. X) (Assink, Bryan)</p>
10/16/2020	<p><u>1195</u> Objection to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Creditor HarbourVest et al. (Driver, Vickie)</p>
10/16/2020	<p><u>1196</u> Witness and Exhibit List filed by Creditor HarbourVest et al (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Driver, Vickie)</p>
10/16/2020	<p><u>1197</u> INCORRECT ENTRY: Attorney to refile. Notice <i>Response to Debtor's Omnibus Objection</i> filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A-Proposed Order and Schedules 1-7)). (Drawhorn, Lauren) Modified on 10/19/2020 (Ecker, C.).</p>



10/16/2020	<p><u>1198</u> INCORRECT ENTRY: Attorney to refile. Notice <i>Response to Debtor's Omnibus Objection</i> filed by Advisors Equity Group, LLC, Eagle Equity Advisors, LLC (RE: related document(s)<u>906</u> Objection to claim(s) of Creditor(s) Daniel Sheehan and Associates, PLLC; Dun &amp; Bradstreet; Eastern Point Trust Company, Inc.; Collin County Tax Assessor/Collector; Collin County Tax Assessor/Collector; Dallas County; Opus 2 International Inc.; Andrew Parmentier; 4CAST Inc.; Advent Software Inc.; ConvergeOne, Inc.; Denton County; Internal Revenue Service; Kaufman County; Maples and Calder; McLagen Partners, Inc.; Microsoft Corporation and Microsoft Licensing GP, a Subsidiary of Microsoft Corporation; Moodys Analytics, Inc.; Quintairos, Prieto, Wood &amp; Boyer; Advisors Equity Group, LLC; Eagle Equity Advisors, LLC; HCRE Partner, LLC; Highland Capital Management Fund Advisors; Highland Capital Management Fund Advisors; Highland Capital Management Services, Inc.; Highland Capital Management Services, Inc.; Highland Energy MLP Fund; Highland Fixed Income Fund; Highland Floating Rate Fund; Highland Funds I; Highland Funds II; Highland Global Allocation Fund; Highland Healthcare Opportunities Fund; Highland iBoxx Senior Loan ETF; Highland Income Fund HFRO; Highland Long/Short Equity Fund; Highland Merger Arbitrage Fund; Highland Opportunistic Credit Fund; Highland Small-Cap Equity Fund; Highland Socially Responsible Equity Fund; Highland Tax-Exempt Fund; Highland Total Return Fund; NexBank SSB; NexPoint Advisors, L.P.; NexPoint Advisors, L.P.; NexPoint Capital, Inc.; NexPoint Capital, Inc.; NexPoint Discount Strategies Fund; NexPoint Energy and Material Opportunities Fund; NexPoint Event-Driven Fund; NexPoint Healthcare Opportunities Fund; NexPoint Latin America Opportunities Fund; NexPoint Real Estate Strategies Fund; NexPoint Strategic Opportunities Fund; The Dugaboy Investment Trust; The Dugaboy Investment Trust; Bentley Callan; City of Garland; Clay Callan; Eastern Point Trust Company, Inc.; Garland Independent School District; Grayson County; HarbourVest 2017 Global Fund L.P.; HarbourVest 2017 Global AIF L.P.; HarbourVest Partners L.P. on behalf of funds and accounts under management; HarbourVest Dover Street IX Investment L.P.; HarbourVest Skew Base AIF L.P.; Hartman Wanzor LLP; Irving ISD; John Morris; John R. Watkins; Linear Technologies, Inc.; Mass. Dept. of Revenue; Mediant Communications Inc.; Oklahoma Tax Commission; Jun Park; Paul N. Adkins; Paul N. Adkins; Tarrant County; Theodore N. Dameris; Theodore N. Dameris; Weijun Zang; Anish Tailor; Mollie Boyce-Field; Charles Byrne; Donald Salvino; Ericka Garcia; Garman Turner Gordon; Joe Kingsley; Frederic Mason; TDA Associates, Inc.; Wilkinson Center.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 9/1/2020. (Attachments: # 1 Exhibit A—Proposed Order and Schedules 1–7)). (Drawhorn, Lauren) Modified on 10/19/2020 (Ecker, C.).</p>
10/16/2020	<p><u>1199</u> Witness and Exhibit List filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5) (Sosland, Martin)</p>
10/16/2020	<p><u>1200</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1094</u> Application for compensation <i>Eleventh Monthly Application for Compensation and for Reimbursement of Expenses for the Period from August 1, 2020 through August 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 8/31/). (Pomerantz, Jeffrey)</p>
10/16/2020	<p><u>1201</u> Objection to (related document(s): <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). filed by Debtor Highland Capital Management, L.P.) filed by Creditor Patrick Daugherty. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Service List) (Kathman, Jason)</p>
10/16/2020	<p><u>1202</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P.</p>

	(Claim No. 159). ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4) (Annable, Zachery)
10/16/2020	<u>1203</u> Certificate of service re: 1) Summary Cover Sheet and Ninth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from August 1, 2020 to and Including August 31, 2020; 2) Scheduling Order with Respect to Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch; and 3) Scheduling Order with Respect to Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1160</u> Application for compensation Ninth Monthly Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 8/1/2020 to 8/31/2020, Fee: \$198,616.32, Expenses: \$0. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/30/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1163</u> Order setting hearing on any summary judgment motion and any 3018 Motion filed in accordance with this Order (RE: related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>928</u> , Entered on 10/12/2020 (Okafor, M.), <u>1167</u> Notice to take deposition of James P. Seery, Jr., CEO, Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/16/2020	<u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # <u>1</u> Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Rielly, Bill). (Entered: 10/19/2020)
10/16/2020	<u>1216</u> Joinder by filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1214</u> Motion for summary judgment). (Attachments: # <u>1</u> Proposed Order) (Rielly, Bill) (Entered: 10/19/2020)
10/17/2020	<u>1204</u> Witness and Exhibit List filed by Creditor Patrick Daugherty (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Attachments: # <u>1</u> Exhibit PHD -1 # <u>2</u> Exhibit PHD - 2) (Kathman, Jason)
10/18/2020	<u>1205</u> Notice to take deposition of W. Kevin Moentmann filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/18/2020	<u>1206</u> Notice to take deposition of W. Kevin Moentmann filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/18/2020	<u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # <u>1</u> Proposed Order) (Driver, Vickie)
10/18/2020	<u>1208</u> Declaration re: /of Michael Pugatch in Support of 3018(A) Motion filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan). (Driver, Vickie)
10/19/2020	<u>1209</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Interested Party Jefferies LLC. (Doherty, Casey)
10/19/2020	<u>1210</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor Pension Benefit Guaranty Corporation. (Attachments: # <u>1</u>

	Exhibit # <u>2</u> Certificate of Service) (Baird, Michael)
10/19/2020	<u>1211</u> List <i>APPENDIX TO REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1183</u> Motion to disallow claims <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LOND</i> ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 (slip page – to be filed under seal upon order from Court) # <u>17</u> Exhibit 17 (slip page) # <u>18</u> Exhibit 18 (slip page) # <u>19</u> Exhibit 19 (slip page) # <u>20</u> Exhibit 20 (slip page) # <u>21</u> Exhibit 21 (slip page) # <u>22</u> Exhibit 22 (slip page) # <u>23</u> Exhibit 23 (slip page) # <u>24</u> Exhibit 24 (slip page) # <u>25</u> Exhibit 25 (slip page) # <u>26</u> Exhibit 26 (slip page) # <u>27</u> Exhibit 27 (slip page) # <u>28</u> Exhibit 28 (slip page) # <u>29</u> Exhibit 29 (slip page)) (Platt, Mark)
10/19/2020	<u>1212</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
10/19/2020	<u>1213</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Advisors Equity Group, LLC, Eagle Equity Advisors, LLC. (Drawhorn, Lauren)
10/19/2020	<u>1217</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u> , (Annable, Zachery)
10/19/2020	<u>1218</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor Patrick Daugherty. (Kathman, Jason)
10/19/2020	<u>1219</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor HarbourVest et al. (Driver, Vickie)
10/19/2020	<u>1220</u> Reply to (related document(s): <u>1190</u> Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/19/2020	<u>1221</u> Omnibus Reply to (related document(s): <u>1121</u> Response filed by Interested Party James Dondero, <u>1177</u> Response filed by Creditor CLO Holdco, Ltd., <u>1191</u> Response filed by Interested Party Highland CLO Funding, Ltd., <u>1195</u> Objection filed by Creditor HarbourVest et al, <u>1201</u> Objection filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
10/19/2020	<u>1222</u> Notice of hearing filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of</i>

	<i>Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order), <u>1208</u> Declaration re: /of Michael Pugatch in Support of 3018(A) Motion filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan).). Hearing to be held on 11/10/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1207</u> and for <u>1208</u> , (Driver, Vickie)
10/19/2020	<u>1223</u> Certificate of service re: Motion of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan filed by Creditor HarbourVest et al (RE: related document(s) <u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan). (Driver, Vickie)
10/19/2020	<u>1224</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A – Proposed Order) (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1214</u> , (Annable, Zachery)
10/19/2020	<u>1225</u> Amended Witness and Exhibit List filed by Creditor Patrick Daugherty (RE: related document(s) <u>1204</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit PHD-1 # 2 Exhibit PHD-2 # 3 Exhibit PHD-3 # 4 Exhibit PHD-4 # 5 Exhibit PHD-5 # 6 Exhibit PHD-6 # 7 Exhibit PHD-7 # 8 Exhibit PHD-8 # 9 Exhibit PHD-9 # 10 Exhibit PHD-10 # 11 Exhibit PHD-11 # 12 Exhibit PHD-12 # 13 Exhibit PHD-13 # 14 Exhibit PHD-14 # 15 Exhibit PHD-15 # 16 Exhibit PHD-16 # 17 Exhibit PHD-17 # 18 Exhibit PHD-18 # 19 Exhibit PHD-19 # 20 Exhibit PHD-20 # 21 Exhibit PHD-22) (Kathman, Jason)
10/19/2020	<u>1226</u> Witness and Exhibit List filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). ). (Platt, Mark)
10/19/2020	<u>1227</u> Notice of hearing filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # 1 Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund)..., <u>1216</u> Joinder by filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1214</u> Motion for summary judgment). (Attachments: # 1 Proposed Order)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1215</u> and for <u>1216</u> , (Platt, Mark)
10/19/2020	<u>1228</u> Certificate of service re: 1) Order Granting Extension of Time to File an Adversary Proceeding Against CLO Holdo, Ltd.; and 2) Notice of Deposition of Professor Nancy B. Rapaport Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1168</u> Order granting extension of time to file an adversary proceeding against CLO Holdo, Ltd (RE: related document(s) <u>590</u> Motion to reclaim funds from the registry filed by Creditor CLO Holdco, Ltd.). Entered on 10/14/2020 (Okafor, M.), <u>1171</u> Notice to take deposition of Professor Nancy B. Rapaport filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/20/2020	<u>1229</u> Amended Witness and Exhibit List filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1199</u> List (witness/exhibit/generic)).



	(Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> # <u>5</u> Exhibit 5 # <u>6</u> 6) (Sosland, Martin)
10/20/2020	<u>1230</u> Order granting motion to seal documents (related document # <u>1188</u> Motion for leave to file documents under seal with (I) the Objection and (II) the Declaration of W. Kevin Moentmann in Support of the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72) and (B) the Highland Crusader Funds (Claim No. 81) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC) Entered on 10/20/2020. (Okafor, M.)
10/20/2020	<b>1231 SEALED document regarding: Objection to the Debtor's Motion for Entry of an Order Approving Settlements With (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 7) and (B) the Highland Crusader Funds (Claim No. 81) per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1230</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Sosland, Martin)
10/20/2020	<b>1232 SEALED document regarding: Declaration of W. Kevin Moentmann in Support of Objection to the Debtor's Motion for Entry of an Order Approving Settlements with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 7) and (B) the Highland Crusader Funds (Claim No. 81) per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1230</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 4 # <u>2</u> Exhibit 4 # <u>3</u> Exhibit 6 # <u>4</u> Attachment A # <u>5</u> Attachment B # <u>6</u> Attachment C) (Sosland, Martin)
10/20/2020	<u>1233</u> First Supplemental Order Sustaining First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims ( (RE: related document(s) <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/20/2020 (Okafor, M.)
10/20/2020	<u>1234</u> Order granting motion to seal documents (related document # <u>1182</u> Motion to seal regarding the Redeemer Committee of the Crusader Funds Motion for Partial Summary Judgment and Joinder in the Debtors Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS AG, London Branch and UBS Securities LLC.) Entered on 10/20/2020. (Okafor, M.)
10/20/2020	<u>1235</u> Order granting motion to seal documents (related document # <u>1187</u> Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch) Filed by Debtor Highland Capital Management, L.P.) Entered on 10/20/2020. (Okafor, M.)
10/20/2020	<b>1236 SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1234</u> Order on motion to seal). (Platt, Mark)
10/20/2020	<b>1237 SEALED document regarding: APPENDIX TO REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGEMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC per court order</b> filed by Interested Party

	Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1234</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 16 (sealed) # <u>2</u> Exhibit 17 (sealed) # <u>3</u> Exhibit 18 (sealed) # <u>4</u> Exhibit 19 (sealed) # <u>5</u> Exhibit 20 (sealed) # <u>6</u> Exhibit 21 (sealed) # <u>7</u> Exhibit 22 (sealed) # <u>8</u> Exhibit 23 (sealed) # <u>9</u> Exhibit 24 (sealed) # <u>10</u> Exhibit 25 (sealed) # <u>11</u> Exhibit 26 (sealed) # <u>12</u> Exhibit 27 (sealed) # <u>13</u> Exhibit 28 (sealed) # <u>14</u> Exhibit 29 (sealed)) (Platt, Mark)
10/20/2020	<u>1238</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
10/20/2020	<u>1239</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
10/20/2020	<u>1240</u> Joinder by <i>META-E DISCOVERY, LLC TO THE OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO THE DEBTORS MOTION FOR ENTRY OF AN ORDER (A) APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (B) SCHEDULING A HEARING TO CONFIRM THE FIRST AMENDED PLAN OF REORGANIZATION; (C) ESTABLISHING DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF PLAN; (D) APPROVING FORM OF BALLOTS, VOTING DEADLINE AND SOLICITATION PROCEDURES; AND (E) APPROVING FORM AND MANNER OF NOTICE</i> filed by Interested Party Meta-e Discovery, LLC (RE: related document(s) <u>1239</u> Objection to disclosure statement). (Umari, Basil)
10/20/2020	<u>1241</u> Objection to disclosure statement (RE: related document(s) <u>1080</u> Disclosure statement) filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Patel, Rakhee)
10/20/2020	<u>1242</u> Joinder by <i>REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS JOINDER TO OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO THE DEBTORS MOTION FOR ENTRY OF AN ORDER (A) APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (B) SCHEDULING A HEARING TO CONFIRM THE FIRST AMENDED PLAN OF REORGANIZATION; (C) ESTABLISHING DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF PLAN; (D) APPROVING FORM OF BALLOTS, VOTING DEADLINE AND SOLICITATION PROCEDURES; AND (E) APPROVING FORM AND MANNER OF NOTICE</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1239</u> Objection to disclosure statement). (Platt, Mark)
10/20/2020	1243 Hearing held and Continued (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (Continued Hearing to be held on 10/21/2020 at 10:00 AM Dallas Judge Jernigan Ctrm for <u>1087</u> .) (Edmond, Michael)
10/20/2020	<u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. (Hoffman, Juliana)
10/20/2020	1256 Hearing held on 10/20/2020. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for

	<p>Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.) (Edmond, Michael) (Entered: 10/21/2020)</p>
10/20/2020	<p>1257 Hearing held on 10/20/2020. (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing, Motion approved, based on reasoning given orally. Counsel to upload orders.) (Edmond, Michael) (Entered: 10/21/2020)</p>
10/20/2020	<p>1303 Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1089 Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S EXHIBIT'S #1, #2, #3 &amp; #4; COURT TOOK JUDICIAL NOTICE OF THE DECLARATION OF JOHN A. MORRIS; ADMITTED AS AN EXHIBIT #3; EXHIBITS #2 #3 AND #4 TO DECLARATION AND EXHIBIT #B TO EXHIBIT #1 FILED UNDER SEAL) (Edmond, Michael) (Entered: 10/28/2020)</p>
10/20/2020	<p>1304 DOCKET AN ERROR: Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED JAMES DONDERO'S EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N, #O, #Q, #R, #S, #T, #U, #V, #W &amp; #X; NOTE* EXHIBIT #P (Edmond, Michael) Modified on 10/28/2020 (Edmond, Michael). (Entered: 10/28/2020)</p>
10/20/2020	<p>1305 MODIFIED TEXT: Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (1304 Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED JAMES DONDERO'S EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N, #O, #P, #Q, #R, #S, #T, #U, #V, #W &amp; #X; JASON KATHMAN; COUNSEL FOR PATRICK DAUGHERTY EXHIBIT'S #1079 – AMENDED PLAN &amp; #1080 – AMENDED DISCLOSURE STATEMENT ADMITTED INTO EVIDENCE BY PATRICK DAUGHTERY COUNSEL JASON KATHMAN) (Edmond, Michael) Modified on 10/28/2020 (Edmond, Michael). Modified on 10/30/2020 (Edmond, Michael). (Entered: 10/28/2020)</p>
10/20/2020	<p>1314 Court admitted exhibits date of hearing October 20, 2020 (RE: related document(s)1087 Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED JAMES DONDERO'S EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N, #O, #P, #Q, #R, #S, #T, #U, #V, #W &amp; #X; JASON KATHMAN ; COUNSEL FOR PATRICK</p>

	DAUGHERTY EXHIBIT'S #1079 – AMENDED PLAN & #1080 – AMENDED DISCLOSURE STATEMENT ADMITTED INTO EVIDENCE). (Edmond, Michael) (Entered: 10/30/2020)
10/21/2020	<u>1245</u> Request for transcript regarding a hearing held on 10/20/2020. The requested turn-around time is hourly. (Edmond, Michael)
10/21/2020	<u>1246</u> Request for transcript regarding a hearing held on 10/20/2020. The requested turn-around time is hourly (Jeng, Hawaii)
10/21/2020	<u>1247</u> Motion to appear pro hac vice for Faheem A. Mahmooth. Fee Amount \$100 Filed by Creditor Pension Benefit Guaranty Corporation (Webb, Donna)
10/21/2020	<u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Pachulski Stang Ziehl & Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.).
10/21/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 0.00). Receipt number KF: No Fee Due – Exempt U.S. Government Agency, amount \$ 0.00 (re: Doc <u>1247</u> ). (Floyd)
10/21/2020	<b>1249 SEALED document regarding: Debtor's Opening Brief in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<b>1250 SEALED document regarding: Exhibit 2 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<b>1251 SEALED document regarding: Exhibit 11 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<b>1252 SEALED document regarding: Exhibit 12 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<b>1253 SEALED document regarding: Exhibit 14 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	<b>1254 SEALED document regarding: Exhibit 15 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to



	seal). (Annable, Zachery)
10/21/2020	<b>1255 SEALED document regarding: Exhibit 16 to Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1235</u> Order on motion to seal). (Annable, Zachery)
10/21/2020	1258 Hearing held on 10/21/2020. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; A. Chiarello for Acis and Terrys; M. Hankin, and M. Platt for Redeemer Committee; M. Lynn for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Nonevidentiary closing arguments. Court granted motion, based on reasoning granted orally. Counsel to upload order.) (Edmond, Michael)
10/21/2020	<u>1259</u> Notice of Appearance and Request for Notice by Thomas G. Haskins Jr. filed by Creditor NWCC, LLC. (Haskins, Thomas)
10/21/2020	<u>1260</u> Motion to appear pro hac vice for Jonathan Sundheimer. Fee Amount \$100 Filed by Creditor NWCC, LLC (Haskins, Thomas)
10/21/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28201179, amount \$ 100.00 (re: Doc# <u>1260</u> ). (U.S. Treasury)
10/21/2020	<u>1261</u> Certificate of service re: Joinder to Objection to Disclosure Statement filed by Interested Party Meta-e Discovery, LLC (RE: related document(s) <u>1240</u> Joinder). (Umari, Basil)
10/21/2020	<u>1262</u> Motion to appear pro hac vice for Joseph T. Moldovan. Fee Amount \$100 Filed by Interested Party Meta-e Discovery, LLC (Umari, Basil)
10/21/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28201283, amount \$ 100.00 (re: Doc# <u>1262</u> ). (U.S. Treasury)
10/21/2020	<u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
10/21/2020	<u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.).
10/21/2020	<u>1265</u> Certificate of service re: <i>Documents Served on or Before October 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1178</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). ). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Debtor Highland Capital Management, L.P., <u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1180</u> INCORRECT ENTRY: EVENT CODE.

	<p>SEE DOCUMENT 1214. Motion to disallow claims (<i>Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) (Annable, Zachery) Modified on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1181</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1214</u> Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch)). (Annable, Zachery). Modified linkage on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1184</u> Support/supplemental document (<i>Appendix of Exhibits in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19) (Annable, Zachery). Related document(s) <u>1214</u> Motion for summary judgment filed by Debtor Highland Capital Management, L.P.. Modified linkage on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1185</u> Declaration re: (<i>Declaration of Elissa A. Wagner in Support of Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P.)). (Annable, Zachery). Modified linkage on 10/19/2020. filed by Debtor Highland Capital Management, L.P., <u>1187</u> Motion to file document under seal. (<i>Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>1193</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1179</u> Omnibus Objection to claim(s) of Creditor(s) Crescent Research; Hedgeye Risk Management, LLC; James D. Dondero; NexVest, LLC; James D. Dondero.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 11/18/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 12/14/2020 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1179</u>, filed by Debtor Highland Capital Management, L.P., <u>1202</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). ). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/22/2020	<p><u>1266</u> Order granting motion to continue hearing on (related document # <u>1263</u>) (related documents Disclosure statement) Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, Entered on 10/22/2020. (Ecker, C.)</p>
10/22/2020	<p><u>1267</u> Notice of change of address filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)</p>
10/22/2020	<p><u>1268</u> Amended Notice of hearing (<i>Amended Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u>, (Annable, Zachery)</p>
10/22/2020	

	<p><u>1269</u> Certificate of service re: <i>Documents Served on or Before October 19, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1206</u> Notice to take deposition of W. Kevin Moentmann filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1217</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order), <u>1089</u> Motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. Objections due by 10/19/2020. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 10/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1087</u> and for <u>1089</u>, filed by Debtor Highland Capital Management, L.P., <u>1220</u> Reply to (related document(s): <u>1190</u> Objection filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1221</u> Omnibus Reply to (related document(s): <u>1121</u> Response filed by Interested Party James Dondero, <u>1177</u> Response filed by Creditor CLO Holdco, Ltd., <u>1191</u> Response filed by Interested Party Highland CLO Funding, Ltd., <u>1195</u> Objection filed by Creditor HarbourVest et al, <u>1201</u> Objection filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>1224</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A – Proposed Order) (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1214</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/22/2020	<p><u>1270</u> Certificate of service re: <i>Documents Served on October 20, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1233</u> First Supplemental Order Sustaining First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims ( (RE: related document(s)<u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/20/2020 (Okafor, M.), <u>1235</u> Order granting motion to seal documents (related document <u>1187</u> Debtor's Motion for Leave to File Certain Documents under Seal in Connection with Debtor's Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch) Filed by Debtor Highland Capital Management, L.P.) Entered on 10/20/2020. (Okafor, M.)). (Kass, Albert)</p>
10/23/2020	<p><u>1271</u> Transcript regarding Hearing Held 10/20/2020 (256 pages) RE: Motions to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/21/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1256 Hearing held on 10/20/2020. (RE: related document(s)<u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Court recessed after evidence closed and will reconvene at 10:00 am 10/21/20 for closing arguments.), <u>1257</u> Hearing held on 10/20/2020. (RE: related document(s)<u>1089</u> Motion to compromise controversy with (a) the Redeemer</p>

	Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; R. Patel and B. Shaw for Acis and Terrys; S. Tomkowiak, A. Clubok, and K. Posin for UBS; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Evidentiary hearing. Motion approved, based on reasoning given orally. Counsel to upload orders.)). Transcript to be made available to the public on 01/21/2021. (Rehling, Kathy)
10/23/2020	<u>1272</u> Request for transcript regarding a hearing held on 10/21/2020. The requested turn-around time is hourly. (Edmond, Michael)
10/23/2020	<u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document # <u>1089</u> ) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u> , (Annable, Zachery)
10/23/2020	<u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i> ) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u> , (Annable, Zachery)
10/23/2020	<u>1276</u> Order granting motion to appear pro hac vice adding Faheem A. Mahmooth for Pension Benefit Guaranty Corporation (related document # <u>1247</u> ) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1277</u> Order granting motion to appear pro hac vice adding Jonathan D. Sundheimer for NWCC, LLC (related document <u>1260</u> ) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1278</u> Order granting motion to appear pro hac vice adding Joseph T. Moldovan for Meta-e Discovery, LLC (related document # <u>1262</u> ) Entered on 10/23/2020. (Okafor, M.)
10/23/2020	<u>1279</u> Motion to file document under seal.– <i>Daugherty's Motion for Leave to File Under Seal His Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 and Supporting Documents</i> Filed by Creditor Patrick Daugherty (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Delaware Protective Order) (Kathman, Jason)
10/23/2020	<u>1280</u> Motion for leave to <i>Amend Proof of Claim No. 77</i> Filed by Creditor Patrick Daugherty Objections due by 11/16/2020. (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Second Amended Proof of Claim) (Kathman, Jason)
10/23/2020	



	<u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Creditor Patrick Daugherty (Attachments: # <u>1</u> Exhibit A – Proposed Order) (Kathman, Jason)
10/23/2020	<u>1282</u> Brief in support filed by Creditor Patrick Daugherty (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> ). (Kathman, Jason)
10/23/2020	<u>1283</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 9/30/2020, Fee: \$356,889.96, Expenses: \$2,204.73. Filed by Attorney Juliana Hoffman Objections due by 11/13/2020. (Hoffman, Juliana)
10/23/2020	<u>1284</u> Support/supplemental document– <i>Appendix to Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1282</u> Brief). (Attachments: # <u>1</u> Appendix – Part 1 of 3 # <u>2</u> Appendix – Part 2 # <u>3</u> Appendix – Part 3) (Kathman, Jason)
10/24/2020	<u>1285</u> Transcript regarding Hearing Held 10/21/2020 (48 pages) RE: Motion to Compromise Controversy. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/22/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1258 Hearing held on 10/21/2020. (RE: related document(s) <u>1087</u> Motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159), filed by Debtor Highland Capital Management, L.P.) (Appearances: I. Kharasch, J. Morris, and G. Demo for Debtors; M. Clemente for Unsecured Creditors Committee; A. Chiarello for Acis and Terrys; M. Hankin, and M. Platt for Redeemer Committee; M. Lynn for J. Dondero; J. Kathman for P. Daugherty; R. Matsumura for HCLOF; J. Kane for CLO Holdco; E. Weisgerber for HarbourVest; L. Lambert for UST. Nonevidentiary closing arguments. Court granted motion, based on reasoning granted orally. Counsel to upload order.)). Transcript to be made available to the public on 01/22/2021. (Rehling, Kathy)
10/25/2020	<u>1286</u> Omnibus Response opposed to (related document(s): <u>1209</u> Objection to disclosure statement filed by Interested Party Jefferies LLC, <u>1210</u> Objection to disclosure statement filed by Creditor Pension Benefit Guaranty Corporation, <u>1218</u> Objection to disclosure statement filed by Creditor Patrick Daugherty, <u>1219</u> Objection to disclosure statement filed by Creditor HarbourVest et al, <u>1238</u> Objection to disclosure statement filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch, <u>1239</u> Objection to disclosure statement filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1241</u> Objection to disclosure statement filed by Creditor Acis Capital Management GP, LLC, Creditor Acis Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/25/2020	<u>1287</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan). (Annable, Zachery)
10/25/2020	<u>1288</u> Support/supplemental document ( <i>Redline of Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1287</u> Chapter 11 plan). (Annable, Zachery)
10/25/2020	<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement). (Annable, Zachery)

10/25/2020	<u>1290</u> Support/supplemental document ( <i>Redline of the Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Disclosure statement). (Annable, Zachery)
10/25/2020	<u>1291</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1276</u> Order granting motion to appear pro hac vice adding Faheem A. Mahmooth for Pension Benefit Guaranty Corporation (related document <u>1247</u> ) Entered on 10/23/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/25/2020. (Admin.)
10/25/2020	<u>1292</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1278</u> Order granting motion to appear pro hac vice adding Joseph T. Moldovan for Meta-e Discovery, LLC (related document <u>1262</u> ) Entered on 10/23/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 10/25/2020. (Admin.)
10/26/2020	<u>1293</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing ( <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P., <u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing ( <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
10/26/2020	<u>1294</u> Certificate of service re: <i>Documents Served on October 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Pachulski Stang Ziehl & Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/26/2020	<u>1295</u> Support/supplemental document ( <i>Notice of Supplemental Disclosures</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Disclosure statement). (Annable, Zachery)

10/27/2020	<u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,865,520.45, Expenses: \$18,678.47. Filed by Attorney Juliana Hoffman Objections due by 11/17/2020. (Hoffman, Juliana)
10/27/2020	<u>1297</u> Request for transcript regarding a hearing held on 10/27/2020. The requested turn-around time is hourly (Jeng, Hawaii)
10/27/2020	<u>1298</u> Certificate of service re: <i>Documents Served on or Before October 23, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1266</u> Order granting motion to continue hearing on (related document <u>1263</u> ) (related documents Disclosure statement) Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , Entered on 10/22/2020. (Ecker, C.), <u>1268</u> Amended Notice of hearing ( <i>Amended Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/27/2020	<u>1307</u> Hearing held on 10/27/2020., Hearing continued (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).) Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , (Appearances: J. Pomeranz, I. Kharasch, and G. Demo for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis and Terrys; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Kathman for P. Daugherty; K. Posin for UBS; D. Stroik for HarbourVest; M. Baird for SEC; L. Lambert for UST. Nonevidentiary hearing. Court sustained various objections to adequacy of certain provisions of disclosure statement, orally outlining both specific and general concerns (e.g., vagueness and breadth of releases; delay in Debtor providing certain important documents, such as Claimant Trust Agreement, until Plan Supplement; legal justification for an administrative convenience class at the \$1 million level, consisting mostly of prepetition lawyers fee claim; lack of clarity about assets that will be liquidated for Class 7, particularly in scenario where certain disputed claims are allowed (revenue streams from Debtors management of third-party assets?); lack of support of UCC for plan). Hearing continued to 11/23/20.) (Edmond, Michael) (Entered: 10/28/2020)
10/27/2020	<u>1308</u> Hearing held on 10/27/2020., Hearing continued (RE: related document(s) <u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)) Continued hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u> , (Appearances: J. Pomeranz, I. Kharasch, and G. Demo for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis and Terrys; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Kathman for P. Daugherty; K. Posin for UBS; D. Stroik for HarbourVest; M. Baird for SEC; L. Lambert for UST. Nonevidentiary hearing. Court sustained various objections to adequacy of certain provisions of disclosure statement, orally outlining both specific and general concerns (e.g., vagueness and breadth of releases; delay in Debtor providing certain important documents, such as Claimant Trust Agreement, until Plan Supplement; legal justification for an administrative convenience class at the \$1 million

	level, consisting mostly of prepetition lawyers fee claim; lack of clarity about assets that will be liquidated for Class 7, particularly in scenario where certain disputed claims are allowed (revenue streams from Debtors management of third-party assets?); lack of support of UCC for plan). Hearing continued to 11/23/20.) (Edmond, Michael) (Entered: 10/28/2020)
10/28/2020	<u>1299</u> Request for transcript regarding a hearing held on 10/28/2020. The requested turn-around time is hourly (Jeng, Hawaii)
10/28/2020	<u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , (Annable, Zachery)
10/28/2020	<u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s) <u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.)
10/28/2020	<u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document # <u>1087</u> ) Entered on 10/28/2020. (Okafor, M.)
10/28/2020	<u>1306</u> Hearing held on 10/28/2020. (RE: related document(s) <u>1099</u> Motion for relief from stay – Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay, filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman and T. Uebler for Movant, P. Daugherty; J. Morris for Debtor. Nonevidentiary hearing (Declaration only). Motion granted for reasons stated orally. Mr. Kathman to upload order.) (Edmond, Michael)
10/28/2020	<u>1309</u> Amended Notice of hearing ( <i>Second Amended Notice of Hearing</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i> ) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u> , (Annable, Zachery)
10/28/2020	<u>1310</u> Certificate of service re: 1) Order Approving Debtor's Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith; 2) Amended Notice of Hearing on Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay; and 3) Amended Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P. (related document <u>1089</u> ) Entered on 10/23/2020. (Okafor, M.), <u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1099</u> Motion for relief from stay – Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of



	<p>Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u>, filed by Debtor Highland Capital Management, L.P., <u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/28/2020	<p><u>1311</u> Certificate of service re: 1) <i>Summary Cover Sheet and Eleventh Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from September 1, 2020 Through September 30, 2020; and 2) Debtors Omnibus Reply to Objections to Approval of the Debtors Disclosure Statement for the Debtors First Amended Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1283</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 9/30/2020, Fee: \$356,889.96, Expenses: \$2,204.73. Filed by Attorney Juliana Hoffman Objections due by 11/13/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1286</u> Omnibus Response opposed to (related document(s): <u>1209</u> Objection to disclosure statement filed by Interested Party Jefferies LLC, <u>1210</u> Objection to disclosure statement filed by Creditor Pension Benefit Guaranty Corporation, <u>1218</u> Objection to disclosure statement filed by Creditor Patrick Daugherty, <u>1219</u> Objection to disclosure statement filed by Creditor HarbourVest et al, <u>1238</u> Objection to disclosure statement filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch, <u>1239</u> Objection to disclosure statement filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1241</u> Objection to disclosure statement filed by Creditor Acis Capital Management GP, LLC, Creditor Acis Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/29/2020	<p><u>1312</u> Transcript regarding Hearing Held 10/27/2020 (95 pages) RE: Amended Disclosure Statement, Motion for Entry of an Order Approving Adequacy of Disclosure Statement. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/27/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1308</u> Hearing held on 10/27/2020., Hearing continued (RE: related document(s) <u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)) Continued hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, (Appearances: J. Pomeranz, I. Kharasch, and G. Demo for Debtor; M. Clemente and P. Reid for Unsecured Creditors Committee; R. Patel and A. Chiarello for Acis and Terrys; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; J. Kathman for P. Daugherty; K. Posin for UBS; D. Stroik for HarbourVest; M. Baird for SEC; L. Lambert for UST. Nonevidentiary hearing. Court sustained various objections to adequacy of certain provisions of disclosure statement, orally outlining both specific and general concerns (e.g.,</p>

	vagueness and breadth of releases; delay in Debtor providing certain important documents, such as Claimant Trust Agreement, until Plan Supplement; legal justification for an administrative convenience class at the \$1 million level, consisting mostly of prepetition lawyers fee claim; lack of clarity about assets that will be liquidated for Class 7, particularly in scenario where certain disputed claims are allowed (revenue streams from Debtors management of third-party assets?); lack of support of UCC for plan). Hearing continued to 11/23/20.). Transcript to be made available to the public on 01/27/2021. (Rehling, Kathy)
10/29/2020	<u>1313</u> Certificate of service re: <i>Summary Cover Sheet and Third Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from June 1, 2020 Through and Including August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,865,520.45, Expenses: \$18,678.47. Filed by Attorney Juliana Hoffman Objections due by 11/17/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
10/30/2020	<u>1315</u> Order directing UBS' Offer of Proof (RE: related document(s) <u>1089</u> Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.)
10/30/2020	<u>1316</u> Certificate No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1160</u> Application for compensation <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 8/1/2020 to 8/31/2020, Fee: \$198,616.32, Expenses: \$0.). (Hoffman, Juliana)
10/30/2020	<u>1317</u> Certificate of service re: <i>(Supplemental) Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing <i>(Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P., <u>1097</u> Certificate of service re: <i>Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1081</u> Notice of hearing <i>(Notice of Hearing on Disclosure Statement for the First Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1080</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement). (Attachments: # 1 Exhibit A—First Amended Plan of Reorganization # 2 Exhibit B—Organizational Chart)). Hearing to be held on 10/22/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1080</u> , filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
10/31/2020	<u>1318</u> Transcript regarding Hearing Held 10/28/2020 (32 pages) RE: Patrick Daugherty's Motion to Confirm Status of Automatic Stay. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 01/29/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1306</u> Hearing held on 10/28/2020. (RE: related document(s) <u>1099</u> Motion for relief from stay – Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay, filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman

	and T. Uebler for Movant, P. Daugherty; J. Morris for Debtor. Nonevidentiary hearing (Declaration only). Motion granted for reasons stated orally. Mr. Kathman to upload order.)). Transcript to be made available to the public on 01/29/2021. (Rehling, Kathy)
11/01/2020	<u>1319</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1315</u> Order directing UBS' Offer of Proof (RE: related document(s) <u>1089</u> Motion to compromise controversy filed by Debtor Highland Capital Management, L.P.). Entered on 10/30/2020 (Okafor, M.) No. of Notices: 2. Notice Date 11/01/2020. (Admin.)
11/02/2020	<u>1320</u> Clerk's correspondence requesting an order from attorney for debtor. (RE: related document(s) <u>771</u> Objection to claim(s) 3 of Creditor(s) Acis Capital Management L.P. and Acis Capital Management GP, LLC.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 7/23/2020.) Responses due by 11/16/2020. (Ecker, C.)
11/02/2020	<u>1321</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>1119</u> Motion to extend time to Deadline To File An Adversary Proceeding Against CLO Holdco, Ltd. (EMERGENCY) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/23/2020.) Responses due by 11/16/2020. (Ecker, C.)
11/02/2020	<u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s) <u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u> ) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing ( <i>Second Amended Notice of Hearing</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i> ) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/03/2020	<u>1323</u> Certificate of service re: Daugherty's Objection to Approval of Debtor's Disclosure Statement filed by Creditor Patrick Daugherty (RE: related document(s) <u>1218</u> Objection to disclosure statement). (Kathman, Jason)
11/03/2020	<u>1324</u> Certificate of service re: Daugherty's Motion for Leave to File Under Seal filed by Creditor Patrick Daugherty (RE: related document(s) <u>1279</u> Motion to file document under seal.— <i>Daugherty's Motion for Leave to File Under Seal His Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 and Supporting Documents</i> ). (Kathman, Jason)
11/03/2020	

	<u>1325</u> Certificate of service re: Daugherty's Motion for Leave to Amend Proof of Claim No. 77 filed by Creditor Patrick Daugherty (RE: related document(s) <u>1280</u> Motion for leave to Amend Proof of Claim No. 77). (Kathman, Jason)
11/03/2020	<u>1326</u> Certificate of service re: Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes, Brief and Appendix filed by Creditor Patrick Daugherty (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> , <u>1282</u> Brief, <u>1284</u> Support/supplemental document). (Kathman, Jason)
11/03/2020	<u>1327</u> Order on Creditor Patrick Daugherty's Motion to confirm status of automatic stay, or alternatively to modify automatic stay (related document # <u>1099</u> ) Entered on 11/3/2020. (Okafor, M.)
11/03/2020	<u>1328</u> Notice of Withdrawal of Motion for Relief from the Automatic Stay to Allow Pursuit of Motion for Order to Show Cause For Violations of the Acis Plan Injunction filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>593</u> Motion for relief from stay Fee amount \$181, Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. Objections due by 5/1/2020. (Attachments: # 1 Exhibit 1 (Draft Motion Show Cause Motion) # 2 Exhibit 2 (DAF Complaint 1st case) # 3 Exhibit 3 (DAF Dismissal first case) # 4 Exhibit 4 (DAF Complaint 2nd case) # 5 Exhibit 5 (DAF Dismissal 2nd Case) # 6 Proposed Order)). (Shaw, Brian)
11/03/2020	<u>1329</u> Debtor-in-possession monthly operating report for filing period September 1, 2020 to September 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/03/2020	<u>1330</u> Certificate No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>1142</u> Application for compensation ( <i>Eighth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from July 1, 2020 through July 31, 2020</i> ) for Hayward & Associ). (Annable, Zachery)
11/03/2020	<u>1331</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to September 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
11/04/2020	<u>1332</u> Certificate of service re: filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1331</u> Notice (generic)). (Annable, Zachery)
11/05/2020	<u>1333</u> Stipulation by Highland Capital Management, L.P. and Acis Capital Management, L.P., Acis Capital Management GP, LLC, Joshua N. Terry, Jennifer G. Terry, and James Dondero. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). (Annable, Zachery)
11/05/2020	<u>1334</u> Certificate of service re: ( <i>Amended</i> ) Documents Served on October 21, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10.</i> Filed by Attorney Juliana Hoffmann Objections due by 11/10/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for</i>



	<p><i>Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020 for Pachulski Stang Ziehl &amp; Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1294</u> Certificate of service re: <i>Documents Served on October 21, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020 for Pachulski Stang Ziehl &amp; Jones, LLP, Debtor's Attorney, Period: 9/10/2020 to 9/30/2020, Fee: \$828,193.00, Expenses: \$7,707.11. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 11/12/2020. (Pomerantz, Jeffrey) MODIFIED to correct party requesting fees/expenses. on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>1263</u> Emergency Motion to continue hearing on (related documents <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1264</u> Stipulation Resolving Proof of Claim No. 86 of NWCC, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED to correct text on 10/22/2020 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</i></i></p>
11/05/2020	<p><u>1335</u> Certificate of service re: <i>(Amended) 1) Order Approving Debtor's Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith; 2) Amended Notice of Hearing on Patrick Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay; and 3) Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1273</u> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document <u>1089</u>) Entered on 10/23/2020. (Okafor, M.), <u>1274</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1099</u> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1099</u>, filed by Debtor Highland Capital Management, L.P., <u>1275</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1310</u> Certificate of service re: <i>1) Order Approving Debtor's Settlement with (A) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (B) the Highland Crusader Funds (Claim No. 81), and Authorizing Actions Consistent Therewith; 2) Amended Notice of Hearing on Patrick</i></p>

	<p><i>Daugherty's Motion to Confirm Status of Automatic Stay, or Alternatively to Modify Automatic Stay; and 3) Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">1273</a> Order granting motion to compromise controversy with (a) the Redeemer Committee of the Highland Crusader Fund (Claim No. 72), and (b) the Highland Crusader Funds (Claim No. 81). Filed by Debtor Highland Capital Management, L.P (related document <a href="#">1089</a>) Entered on 10/23/2020. (Okafor, M.), <a href="#">1274</a> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">1099</a> Motion for relief from stay – <i>Daugherty's Motion to Confirm Status of Automatic Stay, or alternatively to Modify Automatic Stay</i> Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 10/8/2020. (Attachments: # 1 Exhibit Declaration of Patrick Daugherty in Support of Motion # 2 Service List)). Hearing to be held on 10/28/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <a href="#">1099</a>, filed by Debtor Highland Capital Management, L.P., <a href="#">1275</a> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">1108</a> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <a href="#">1079</a> Chapter 11 plan, <a href="#">1080</a> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 10/27/2020 at 10:30 AM Dallas Judge Jernigan Ctrm for <a href="#">1108</a>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/05/2020	<p><a href="#">1336</a> BNC certificate of mailing – PDF document. (RE: related document(s)<a href="#">1327</a> Order on Creditor Patrick Daugherty's Motion to confirm status of automatic stay, or alternatively to modify automatic stay (related document <a href="#">1099</a>) Entered on 11/3/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 11/05/2020. (Admin.)</p>
11/06/2020	<p><a href="#">1337</a> Response opposed to (related document(s): <a href="#">1214</a> Motion for summary judgment filed by Debtor Highland Capital Management, L.P., <a href="#">1215</a> Motion for summary judgment filed by Interested Party Redeemer Committee of the Highland Crusader Fund) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)</p>
11/06/2020	<p><a href="#">1338</a> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 11/20/2020. (Attachments: # <a href="#">1</a> Proposed Order) (Sosland, Martin)</p>
11/06/2020	<p><a href="#">1339</a> Notice of appeal . Fee Amount \$298 filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<a href="#">1273</a> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # <a href="#">1</a> Exhibit)(Sosland, Martin)</p>
11/06/2020	<p>Receipt of filing fee for Notice of appeal(19–34054–sgj11) [appeal,ntcap] ( 298.00). Receipt number 28246686, amount \$ 298.00 (re: Doc# <a href="#">1339</a>). (U.S. Treasury)</p>
11/06/2020	<p><a href="#">1340</a> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 9/30/2020, Fee: \$170,859.60, Expenses: \$806.60. Filed by Attorney Juliana Hoffman Objections due by 11/30/2020. (Hoffman, Juliana)</p>
11/06/2020	<p><a href="#">1341</a> Brief in opposition filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<a href="#">1214</a> Motion for summary judgment, <a href="#">1215</a> Motion for summary judgment). (Sosland, Martin)</p>
11/06/2020	

	<u>1342</u> Brief in support filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> )). (Sosland, Martin)
11/06/2020	<u>1343</u> Motion to file document under seal.( <i>With UBS's Brief and Appendix of Exhibits in Opposition to Motions for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 and in Support of Rule 56(d) Request</i> ) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
11/06/2020	<u>1344</u> Motion to file document under seal.( <i>With UBS's Brief and Appendix of Exhibits in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> ) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
11/06/2020	<u>1345</u> Exhibit List ( <i>Appendix of Exhibits to UBS's Brief in Opposition to Motions for Partial Summary Judgment on Proof of Claims Nos. 190 and 191 and in Support of Rule 56(d) Request</i> ) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1337</u> Response). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9–21 # <u>10</u> Exhibit 22) (Sosland, Martin)
11/06/2020	<u>1346</u> Exhibit List ( <i>Appendix of Exhibits to UBS's Brief in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> ) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> )). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9–29) (Sosland, Martin)
11/09/2020	<u>1347</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # <u>1</u> Order)(Assink, Bryan)
11/09/2020	Receipt of filing fee for Notice of appeal(19–34054–sgj11) [appeal.ntcapl] ( 298.00). Receipt number 28249949, amount \$ 298.00 (re: Doc# <u>1347</u> ). (U.S. Treasury)
11/09/2020	<u>1348</u> Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Creditor HarbourVest et al (Attachments: # <u>1</u> Proposed Order) (Driver, Vickie)
11/09/2020	<u>1349</u> Objection to (related document(s): <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/09/2020	<u>1350</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1349</u> Objection). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
11/10/2020	<u>1351</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Creditor Patrick Daugherty (Attachments: # 1 Exhibit A – Proposed Order)). Hearing to be held on 11/17/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1281</u> , (Annable, Zachery)

11/10/2020	<u>1352</u> Order granting motion to continue hearing on (related document # <u>1348</u> ) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> ) Hearing to be held on 12/2/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 11/10/2020. (Okafor, M.)
11/10/2020	<u>1353</u> Order granting motion to seal documents with UBS's Brief and Appendix of Exhibits in Opposition to Motions for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 and in Support of Rule 56(d) Request (related document # <u>1343</u> ) Entered on 11/10/2020. (Okafor, M.)
11/10/2020	<u>1354</u> Order granting motion to seal documents with UBS's Brief and Appendix of Exhibits in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018 (related document # <u>1344</u> ) Entered on 11/10/2020. (Okafor, M.)
11/10/2020	<b>1355 SEALED document regarding: UBS's Brief in Opposition to Motions for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 and in Support of Rule 56(d) Request per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1353</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 9 # <u>2</u> Exhibit 10 # <u>3</u> Exhibit 11 # <u>4</u> Exhibit 12 # <u>5</u> Exhibit 13 # <u>6</u> Exhibit 14 # <u>7</u> Exhibit 15 # <u>8</u> Exhibit 16 # <u>9</u> Exhibit 17 # <u>10</u> Exhibit 18 # <u>11</u> Exhibit 19 # <u>12</u> Exhibit 20 # <u>13</u> Exhibit 21) (Sosland, Martin)
11/10/2020	<b>1356 SEALED document regarding: UBS's Brief in Support of Motion for Temporary Allowance of claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018 per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1354</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 9 # <u>2</u> Exhibit 10 # <u>3</u> Exhibit 11 # <u>4</u> Exhibit 12 # <u>5</u> Exhibit 13 # <u>6</u> Exhibit 14 # <u>7</u> Exhibit 15 # <u>8</u> Exhibit 16 # <u>9</u> Exhibit 17 # <u>10</u> Exhibit 18 # <u>11</u> Exhibit 19 # <u>12</u> Exhibit 20 # <u>13</u> Exhibit 21 # <u>14</u> Exhibit 22 # <u>15</u> Exhibit 23 # <u>16</u> Exhibit 24 # <u>17</u> Exhibit 25 # <u>18</u> Exhibit 26 # <u>19</u> Exhibit 27 # <u>20</u> Exhibit 28 # <u>21</u> Exhibit 29) (Sosland, Martin)
11/10/2020	<u>1357</u> Notice of hearing filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> ) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC Objections due by 11/20/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 11/20/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1338</u> , (Sosland, Martin)
11/10/2020	<u>1358</u> Certificate of service re: <i>Eleventh Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from September 1, 2020 to and Including September 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1340</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 9/30/2020, Fee: \$170,859.60, Expenses: \$806.60. Filed by Attorney Juliana Hoffman Objections due by 11/30/2020. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)
11/10/2020	<u>1359</u> Certificate of service re: 1) <i>Debtors Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> ; and 2) <i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1349</u> Objection to (related document(s): <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1350</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Objection to</i>



	<i>Patrick Hagaman Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">1349</a> Objection). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/11/2020	<a href="#">1360</a> Motion to appear pro hac vice for Hayley R. Winograd. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
11/11/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28256837, amount \$ 100.00 (re: Doc# <a href="#">1360</a> ). (U.S. Treasury)
11/11/2020	<a href="#">1361</a> Certificate of service re: <i>1) Notice of Transfer for MCS Capital LLC c/o STC, Inc. re: Lynn Pinker Cox &amp; Hurst, LLP (Claim No. 148); and 2) Notice of Transfer for Argo Partners re: Stanton Advisors LLC (Scheduled Amount \$10,000.00)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">1165</a> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 1 Transferors: Stanton Advisors LLC (Amount \$10,000.00) To Argo Partners. Filed by Creditor Argo Partners. filed by Creditor Argo Partners, <a href="#">1166</a> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Lynn Pinker Cox & Hurst, LLP (Claim No. 148, Amount \$507,430.34) To MCS Capital LLC c/o STC, Inc.. Filed by Creditor Argo Partners. filed by Creditor Argo Partners). (Kass, Albert)
11/12/2020	<a href="#">1363</a> Certificate of mailing regarding appeal (RE: related document(s) <a href="#">1347</a> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <a href="#">1302</a> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)) (Attachments: # <a href="#">1</a> Service List) (Whitaker, Sheniqua)
11/12/2020	<a href="#">1364</a> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <a href="#">1347</a> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <a href="#">1302</a> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)) (Whitaker, Sheniqua)
11/12/2020	<a href="#">1365</a> Agreed supplemental order regarding deposit of funds into the registry of the court (RE: related document(s) <a href="#">821</a> Agreed order regarding deposit of funds into the registry of the Court.). Entered on 11/12/2020 (Okafor, M.)
11/12/2020	<a href="#">1366</a> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2020 through August 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">342</a> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <a href="#">74</a> ) Entered on 1/10/2020. (Okafor, M.), <a href="#">853</a> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <a href="#">775</a> ) Entered on 7/16/2020. (Ecker, C.)). (Attachments: # <a href="#">1</a> Exhibit A—DSI Monthly Staffing Report for August 2020) (Annable, Zachery)
11/12/2020	<a href="#">1367</a> Certificate of service re: <i>Notice of Hearing on Patrick Hagaman Daughertys Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">1351</a> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">1281</a> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> Filed by Creditor Patrick Daugherty (Attachments: # 1 Exhibit A – Proposed Order)). Hearing to be held on 11/17/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <a href="#">1281</a> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/12/2020	

	<u>1368</u> Clerk's correspondence requesting to amend the notice of appeal from attorney for appellant. (RE: related document(s) <u>1339</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # 1 Exhibit)) Responses due by 11/16/2020. (Whitaker, Sheniqua)
11/12/2020	<u>1369</u> Amended notice of appeal filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1339</u> Notice of appeal). (Sosland, Martin)
11/12/2020	<u>1370</u> Notice of docketing notice of appeal. Civil Action Number: 3:20-cv-03390-X. (RE: related document(s) <u>1347</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)) (Whitaker, Sheniqua)
11/13/2020	<u>1371</u> Order granting motion to appear pro hac vice adding Hayley R. Winograd for Highland Capital Management, L.P. (related document # <u>1360</u> ) Entered on 11/13/2020. (Ecker, C.)
11/13/2020	<u>1372</u> Order granting motion to seal documents (related document # <u>1279</u> ) Entered on 11/13/2020. (Ecker, C.)
11/13/2020	<u>1374</u> INCORRECT ENTRY. Incomplete Form. Certificate of mailing regarding appeal (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # 1 Exhibit)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua) Modified on 11/13/2020 (Whitaker, Sheniqua).
11/13/2020	<u>1375</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). Appellant Designation due by 11/20/2020. (Attachments: # 1 Exhibit)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
11/13/2020	<u>1376</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
11/13/2020	<u>1377</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise & Plimpton LLP (Claim No. 94, Amount \$268,095.08) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/13/2020	<u>1378</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise & Plimpton LLP (Claim No. 97, Amount \$268,095.08) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/13/2020	<u>1379</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise & Plimpton LLP (Amount \$20,658.79) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/13/2020	<u>1380</u> WITHDRAWN per # <u>1421</u> . Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLC (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas) Modified on 11/19/2020 (Ecker, C.).
11/13/2020	

	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1377</u> ). (U.S. Treasury)
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1378</u> ). (U.S. Treasury)
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1379</u> ). (U.S. Treasury)
11/13/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 25.00). Receipt number 28267014, amount \$ 25.00 (re: Doc# <u>1380</u> ). (U.S. Treasury)
11/13/2020	<u>1381</u> Notice of docketing notice of appeal. Civil Action Number: 3:20-cv-03408-G. (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
11/13/2020	<u>1382</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> ). (Annable, Zachery)
11/13/2020	<u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan). (Annable, Zachery)
11/13/2020	<u>1384</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement). (Annable, Zachery)
11/13/2020	<u>1385</u> Support/supplemental document ( <i>Redline Comparison of Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1383</u> Chapter 11 plan). (Annable, Zachery)
11/13/2020	<u>1386</u> Support/supplemental document ( <i>Redline Comparison of Disclosure Statement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1384</u> Disclosure statement). (Annable, Zachery)
11/13/2020	<u>1387</u> Certificate of service re: ( <i>Supplemental</i> ) Documents Served on October 28, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1309</u> Amended Notice of hearing ( <i>Second Amended Notice of Hearing</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i> ) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice

	<p>of Confirmation Hearing # 4 Exhibit 1-C—Notice of Non-Voting Status # 5 Exhibit 1-D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u>) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1-A—Forms of Ballots # 3 Exhibit 1-B—Notice of Confirmation Hearing # 4 Exhibit 1-C—Notice of Non-Voting Status # 5 Exhibit 1-D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/13/2020	<p><u>1388</u> Witness and Exhibit List for <i>Hearing on Motion for Allowance of Claim</i> filed by Creditor Patrick Daugherty (RE: related document(s)<u>1281</u> Motion for leave – <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i>). (Attachments: # <u>1</u> Exhibit PHD-1 # <u>2</u> Exhibit PHD-2 # <u>3</u> Exhibit PHD-3 # <u>4</u> Exhibit PHD-4 # <u>5</u> Exhibit PHD-5 # <u>6</u> Exhibit PHD-6 # <u>7</u> Exhibit PHD-7 # <u>8</u> Exhibit PHD-8 # <u>9</u> Exhibit PHD-9 # <u>10</u> Exhibit PHD-10 # <u>11</u> Exhibit PHD-11 # <u>12</u> Exhibit PHD-12 # <u>13</u> Exhibit PHD-13 # <u>14</u> Exhibit PHD-14 # <u>15</u> Exhibit PHD-15 # <u>16</u> Exhibit PHD-16 # <u>17</u> Exhibit PHD-17 # <u>18</u> Exhibit PHD-18 # <u>19</u> Exhibit PHD-19 # <u>20</u> Exhibit PHD-20 # <u>21</u> Exhibit PHD-21 # <u>22</u> Exhibit PHD-22 # <u>23</u> Exhibit PHD-23 # <u>24</u> Exhibit PHD-24 # <u>25</u> Exhibit PHD-25 # <u>26</u> Exhibit PHD-26 # <u>27</u> Exhibit PHD-27 # <u>28</u> Exhibit PHD-28 # <u>29</u> Exhibit PHD-29 # <u>30</u> Exhibit PHD-30 # <u>31</u> Exhibit PHD-31 # <u>32</u> Exhibit PHD-32 # <u>33</u> Exhibit PHD-33 # <u>34</u> Exhibit PHD-34 # <u>35</u> Exhibit PHD-35 # <u>36</u> Exhibit PHD-36 # <u>37</u> Exhibit PHD-37 # <u>38</u> Exhibit PHD-38 # <u>39</u> Exhibit PHD-39 # <u>40</u> Exhibit PHD-40 # <u>41</u> Exhibit PHD-41 # <u>42</u> Exhibit PHD-42) (Kathman, Jason)</p>
11/13/2020	<p><u>1389</u> Notice (<i>Debtor's Notice of Filing of Supplement to the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan)). (Attachments: # <u>1</u> Exhibit A—Form of Claimant Trust Agreement # <u>2</u> Exhibit B—Form of New GP LLC Documents # <u>3</u> Exhibit C—Form of Reorganized Limited Partnership Agreement # <u>4</u> Exhibit D—Form of Litigation Sub-Trust Agreement # <u>5</u> Exhibit E—Schedule of Retained Causes of Action # <u>6</u> Exhibit F—Form of New Frontier Note # <u>7</u> Exhibit G—Schedule of Employees # <u>8</u> Exhibit H—Form of Senior Employee Stipulation) (Annable, Zachery)</p>
11/14/2020	<p><u>1390</u> BNC certificate of mailing. (RE: related document(s)<u>1364</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)<u>1347</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s)<u>1302</u></p>



	Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order))) No. of Notices: 1. Notice Date 11/14/2020. (Admin.)
11/15/2020	<u>1391</u> BNC certificate of mailing. (RE: related document(s) <u>1376</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1339</u> Notice of appeal . filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Attachments: # 1 Exhibit))) No. of Notices: 2. Notice Date 11/15/2020. (Admin.)
11/15/2020	<u>1392</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1371</u> Order granting motion to appear pro hac vice adding Hayley R. Winograd for Highland Capital Management, L.P. (related document <u>1360</u> ) Entered on 11/13/2020. (Ecker, C.)) No. of Notices: 1. Notice Date 11/15/2020. (Admin.)
11/16/2020	<u>1393</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1248</u> Application for compensation <i>Cover Sheet and Twelfth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from September 1, 2020 through September 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Peri). (Pomerantz, Jeffrey)
11/16/2020	<b>1394 SEALED document regarding: Exhibit 1 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order</b> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<b>1395 SEALED document regarding: Exhibit 26 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order</b> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<b>1396 SEALED document regarding: Exhibit 27 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order</b> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<b>1397 SEALED document regarding: Exhibit 36 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order</b> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<b>1398 SEALED document regarding: Exhibit 37 to Appendix to Patrick Hagaman Daugherty's Memorandum of Law and Brief in Support of Motion for Temporary Allowance for Voting Purposes Pursuant to Bankruptcy Rule 3018 per court order</b> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1372</u> Order on motion to seal). (Kathman, Jason)
11/16/2020	<u>1399</u> Notice ( <i>Notice of Filing of Fourth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4

	Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
11/16/2020	<u>1400</u> Declaration re: ( <i>Disclosure Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
11/16/2020	<u>1401</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLP (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. (Schneller, Douglas)
11/16/2020	<u>1402</u> Reply to (related document(s): <u>1337</u> Response filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/16/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 25.00). Receipt number 28270620, amount \$ 25.00 (re: Doc# <u>1401</u> ). (U.S. Treasury)
11/16/2020	<u>1403</u> Exhibit List ( <i>Appendix of Exhibits to Debtor's Reply in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1402</u> Reply). (Annable, Zachery)
11/16/2020	<u>1404</u> Objection to (related document(s): <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> ) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/16/2020	<u>1405</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS REPLY BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTORS MOTION FOR PARTIAL SUMMARY JUDGEMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Proposed Order) (Platt, Mark)
11/16/2020	<u>1406</u> Motion to file document under seal. <i>MOTION FOR AN ORDER GRANTING LEAVE TO FILE DOCUMENTS UNDER SEAL REGARDING REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS OBJECTION AND JOINDER TO DEBTORS OBJECTION TO UBS AG, LONDON BRANCH AND UBS SECURITIES LLC'S MOTION FOR TEMPORARY ALLOWANCE OF CLAIMS FOR VOTING PURPOSES PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 3018</i> Filed by Interested Party Redeemer Committee of the Highland Crusader Fund (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Proposed Order) (Platt, Mark)
11/16/2020	<u>1407</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for</i>

	<i>Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10.). (Hoffman, Juliana)
11/16/2020	<u>1408</u> Reply to (related document(s): <u>1337</u> Response filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B (slip sheet only)) (Platt, Mark)
11/16/2020	<u>1409</u> Objection to (related document(s): <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> ) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Interested Party Redeemer Committee of the Highland Crusader Fund. (Attachments: # <u>1</u> Exhibit A (slip sheet only) # <u>2</u> Exhibit B (slip sheet only) # <u>3</u> Exhibit C (slip sheet only) # <u>4</u> Exhibit D (slip sheet only)) (Platt, Mark)
11/16/2020	<u>1410</u> Certificate Amended Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10., <u>1407</u> Certificate (generic)). (Hoffman, Juliana)
11/16/2020	<u>1411</u> Reply to (related document(s): <u>1349</u> Objection filed by Debtor Highland Capital Management, L.P.) – <i>Daugherty's Reply in Support of Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> filed by Creditor Patrick Daugherty. (Kathman, Jason)
11/16/2020	<u>1412</u> Declaration re: <i>Michael S. Colvin in Support of Motion for Temporary Allowance of Claims for Voting Purposes</i> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1411</u> Reply). (Kathman, Jason)
11/17/2020	<u>1413</u> Witness and Exhibit List ( <i>Debtor's Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment, <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> )). (Attachments: # <u>1</u> Exhibit 30) (Annable, Zachery)
11/17/2020	<u>1414</u> Witness and Exhibit List for <i>November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment, <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> )). (Platt, Mark)
11/17/2020	<u>1415</u> Request for transcript regarding a hearing held on 11/17/2020. The requested turn-around time is hourly. (Edmond, Michael)
11/17/2020	<u>1416</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,86). (Hoffman, Juliana)
11/17/2020	<u>1417</u> Certificate of service re: 1) <i>Motion for Admission Pro Hac Vice of Hayley R. Winograd to Represent Highland Capital Management, L.P.</i> ; 2) <i>Agreed Supplemental Order Regarding Deposit of Funds Into the Registry of the Court</i> ; and 3) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2020 Through August 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC

	<p>(related document(s)<u>1360</u> Motion to appear pro hac vice for Hayley R. Winograd. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1365</u> Agreed supplemental order regarding deposit of funds into the registry of the court (RE: related document(s)<u>821</u> Agreed order regarding deposit of funds into the registry of the Court.). Entered on 11/12/2020 (Okafor, M.), <u>1366</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2020 through August 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Attachments: # 1 Exhibit A—DSI Monthly Staffing Report for August 2020) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/17/2020	<p><u>1418</u> Witness and Exhibit List (<i>UBS's Witness and Exhibit List for November 20, 2020 Hearing</i>) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<u>1214</u> Motion for summary judgment, <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>)). (Attachments: # <u>1</u> Exhibit 26 – 28 # <u>2</u> Exhibit 29 # <u>3</u> Exhibit 30 # <u>4</u> Exhibit AG30 # <u>5</u> Exhibit AG31 # <u>6</u> Exhibit AG32 – AG46) (Sosland, Martin)</p>
11/17/2020	<p><u>1419</u> Court admitted exhibits date of hearing November 17, 2020 (RE: related document(s)<u>1281</u> Motion for leave – Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty., (COURT ADMITTED THE FOLLOWING EXHIBIT'S; PLAINTIFF'S PATRICK H. DAUGHERTY EXHIBIT'S #1 THROUGH #41 BY THOMAS UEBLER AND DEFENDANT DEBTOR'S EXHIBIT'S #A THROUGH #V &amp; EXHIBIT'S #X1 &amp; #X2 BY JOHN MORRIS) (Edmond, Michael) (Entered: 11/18/2020)</p>
11/17/2020	<p><u>1422</u> Hearing held on 11/17/2020. (RE: related document(s)<u>1281</u> Motion for leave – Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 filed by Creditor Patrick Daugherty) (Appearances: T. Uebler, J. Christensen, and J. Kathman for P. Daugherty; J. Morris and J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Claim estimated for voting purposes at \$9,134,019 for reasons stated on the record. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2020)</p>
11/18/2020	<p><u>1420</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from September 1, 2020 through September 30, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring–Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u>) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
11/18/2020	<p><u>1421</u> Withdrawal [<i>Notice of Withdrawal of Notice of Transfer of Claim From Debevoise &amp; Plimpton LLP to Contrarian Funds, LLC</i>] Filed by Creditor Contrarian Funds LLC (related document(s)<u>1380</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLC (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. filed by Creditor Contrarian Funds LLC). (Schneller, Douglas)</p>
11/18/2020	<p><u>1423</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1382</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit</p>



	G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit T # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> Exhibit X-1 # <u>24</u> Exhibit X-2) (Annable, Zachery)
11/18/2020	<u>1424</u> Motion for leave ( <i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery)
11/18/2020	<u>1425</u> Motion for expedited hearing(related documents <u>1424</u> Motion for leave) ( <i>Debtor's Motion for an Expedited Hearing on the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreement</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
11/18/2020	<u>1426</u> Transcript regarding Hearing Held 11/17/2020 (90 pages) RE: Motion for Temporary Allowance of Claim (#1281). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/16/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1422</u> Hearing held on 11/17/2020. (RE: related document(s) <u>1281</u> Motion for leave - Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 filed by Creditor Patrick Daugherty) (Appearances: T. Uebler, J. Christensen, and J. Kathman for P. Daugherty; J. Morris and J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Claim estimated for voting purposes at \$9,134,019 for reasons stated on the record. Counsel to upload order.)). Transcript to be made available to the public on 02/16/2021. (Rehling, Kathy)
11/18/2020	<u>1427</u> Certificate of service re: <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from September 1, 2020 through September 30, 2020</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1420</u> Notice (generic)). (Annable, Zachery)
11/18/2020	<u>1428</u> Certificate of service re: <i>Documents Served on or Before November 14, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1371</u> Order granting motion to appear pro hac vice adding Hayley R. Winograd for Highland Capital Management, L.P. (related document <u>1360</u> ) Entered on 11/13/2020. (Ecker, C.), <u>1382</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1281</u> Motion for leave - <i>Daugherty's Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018</i> ). filed by Debtor Highland Capital Management, L.P., <u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1384</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1385</u> Support/supplemental document ( <i>Redline Comparison of Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1383</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1386</u> Support/supplemental document ( <i>Redline Comparison of Disclosure Statement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1384</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1389</u> Notice ( <i>Debtor's Notice of Filing of Supplement to the Third Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1383</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan).). (Attachments: # 1 Exhibit

	A—Form of Claimant Trust Agreement # 2 Exhibit B—Form of New GP LLC Documents # 3 Exhibit C—Form of Reorganized Limited Partnership Agreement # 4 Exhibit D—Form of Litigation Sub—Trust Agreement # 5 Exhibit E—Schedule of Retained Causes of Action # 6 Exhibit F—Form of New Frontier Note # 7 Exhibit G—Schedule of Employees # 8 Exhibit H—Form of Senior Employee Stipulation) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/18/2020	<u>1429</u> Expedited Motion to file document under seal.(UBS's Expedited Motion for Leave to File Documents Under Seal With UBS's Witness and Exhibit List for November 20, 2020 Hearing) Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)
11/19/2020	<u>1430</u> Order granting motion to seal documents regarding the Redeemer Committee of the Highland Crusader Funds and Crusader Funds Reply Brief in Support of their Motion for Partial Summary Judgment and Joinder in the Debtors Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS AG, London Branch and UBS Securities LLC.(related document # <u>1405</u> ) Entered on 11/19/2020. (Okafor, M.)
11/19/2020	<u>1431</u> Order granting motion to seal documents regarding the Redeemer Committee of the Crusader Fund and the Crusader Funds Objection and Joinder to Debtors Objection to UBS AG, London Branch and UBS Securities LLCs Motion for Temporary Allowance of Claims for Voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018 (related document # <u>1406</u> ) Entered on 11/19/2020. (Okafor, M.)
11/19/2020	<b>1432 SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUND AND THE CRUSADER FUNDS' OBJECTION AND JOINDER TO DEBTOR'S OBJECTION TO UBS AG, LONDON BRANCH AND UBS SECURITIES, LLC'S MOTION FOR TEMPORARY ALLOWANCE OF CLAIMS FOR VOTING PURPOSES PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 3018 per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1431</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D) (Platt, Mark)
11/19/2020	<b>1433 SEALED document regarding: REDEEMER COMMITTEE OF THE HIGHLAND CRUSADER FUNDS AND THE CRUSADER FUNDS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT AND JOINDER IN THE DEBTOR'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON PROOF OF CLAIM NOS. 190 AND 191 OF UBS AG, LONDON BRANCH AND UBS SECURITIES LLC per court order</b> filed by Interested Party Redeemer Committee of the Highland Crusader Fund (RE: related document(s) <u>1430</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit B) (Platt, Mark)
11/19/2020	<u>1434</u> Notice of hearing ( <i>Notice of Hearing on Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub—Servicer Agreements</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1424</u> Motion for leave ( <i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub—Servicer Agreements</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u> , (Annable, Zachery)
11/19/2020	<u>1435</u> Stipulation by Highland Capital Management, L.P. and MCS Capital, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1166</u> Assignment/Transfer of claim (Claims Agent)). (Annable, Zachery)
11/19/2020	<u>1436</u> Order granting motion for expedited hearing (Related Doc# <u>1425</u> )(document set for hearing: <u>1424</u> Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub—Servicer Agreements) Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u> , Entered on 11/19/2020. (Okafor, M.)

11/19/2020	<u>1437</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/19/2020	<u>1438</u> Notice ( <i>Reservation of Rights of UBS Regarding Debtor's Motion for Approval of the Debtor's Proposed Disclosure Statement and Certain Solicitation and Notice Procedures</i> ) filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i> ) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption), <u>1384</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement). (Sosland, Martin)
11/19/2020	<u>1439</u> WITHDRAWN per docket # <u>1622</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
11/19/2020	<u>1440</u> Order granting motion to seal documents with UBSs Witness and Exhibit List for November 20, 2020 Hearing (related document # <u>1429</u> ) Entered on 11/19/2020. (Okafor, M.)
11/19/2020	<u>1441</u> <b>SEALED document regarding: UBS's Witness and Exhibit List for November 20, 2020 Hearing per court order</b> filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1440</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 26 # <u>2</u> Exhibit 27 # <u>3</u> Exhibit 28 # <u>4</u> Exhibit 30 # <u>5</u> Exhibit AG32 # <u>6</u> Exhibit AG33 # <u>7</u> Exhibit AG34 # <u>8</u> Exhibit AG35 # <u>9</u> Exhibit AG36 # <u>10</u> Exhibit AG37 # <u>11</u> Exhibit AG38 # <u>12</u> Exhibit AG39 # <u>13</u> Exhibit AG40 # <u>14</u> Exhibit AG41 # <u>15</u> Exhibit AG42 # <u>16</u> Exhibit AG43 # <u>17</u> Exhibit AG44 # <u>18</u> Exhibit AG45 # <u>19</u> Exhibit AG46) (Sosland, Martin)
11/19/2020	<u>1442</u> Certificate of service re: <i>Documents Served on November 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1399</u> Notice ( <i>Notice of Filing of Fourth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.), <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P., <u>1400</u> Declaration re: ( <i>Disclosure Declaration of</i>

	<p><i>Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>1402</u> Reply to (related document(s): <u>1337</u> Response filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1403</u> Exhibit List (<i>Appendix of Exhibits to Debtor's Reply in Support of Motion for Partial Summary Judgment on Proof of Claim Nos. 190 and 191 of UBS Securities LLC and UBS AG, London Branch</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1402</u> Reply). filed by Debtor Highland Capital Management, L.P., <u>1404</u> Objection to (related document(s): <u>1338</u> Motion to allow claims(<i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i>) filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/19/2020	<p><u>1443</u> Motion for expedited hearing(related documents <u>1439</u> Motion for leave) (<i>Request for Emergency Hearing on James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i>) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan)</p>
11/20/2020	<p><u>1444</u> Notice (<i>Revised Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1437</u> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P..). (Annable, Zachery)</p>
11/20/2020	<p><u>1445</u> Objection to disclosure statement (RE: related document(s)<u>1384</u> Disclosure statement) filed by Creditor Patrick Daugherty. (Kathman, Jason)</p>
11/20/2020	<p><u>1446</u> Request for transcript regarding a hearing held on 11/20/2020. The requested turn-around time is hourly. (Edmond, Michael)</p>
11/20/2020	<p><u>1447</u> WITHDRAWN per # <u>1460</u> Response opposed to (related document(s): <u>1424</u> Motion for leave (<i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Bonds, John) Modified on 11/23/2020 (Ecker, C.).</p>
11/20/2020	<p><u>1448</u> Application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/1/2020 to 10/31/2020, Fee: \$1,119,675.50, Expenses: \$19,132.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/11/2020. (Pomerantz, Jeffrey)</p>
11/20/2020	<p><u>1449</u> Amended application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020 (amended solely to include Exhibit A)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/1/2020 to 10/31/2020, Fee: \$1,119,675.50, Expenses: \$19,132.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/11/2020. (Pomerantz, Jeffrey)</p>
11/20/2020	<p><u>1450</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan). (Annable, Zachery)</p>
11/20/2020	<p><u>1451</u> Support/supplemental document (<i>Interim Redline of Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1450</u> Chapter 11 plan). (Annable, Zachery)</p>



11/20/2020	<u>1452</u> Support/supplemental document ( <i>Cumulative Redline of Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1450</u> Chapter 11 plan). (Annable, Zachery)
11/20/2020	<u>1453</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement). (Annable, Zachery)
11/20/2020	<u>1454</u> Support/supplemental document ( <i>Interim Redline of Disclosure Statement for the Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1453</u> Disclosure statement). (Annable, Zachery)
11/20/2020	<u>1455</u> Support/supplemental document ( <i>Cumulative Redline of Disclosure Statement for the Fourth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1453</u> Disclosure statement). (Annable, Zachery)
11/20/2020	<u>1456</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1369</u> Amended notice of appeal). Appellee designation due by 12/4/2020. (Sosland, Martin)
11/20/2020	<u>1457</u> Certificate of service re: ( <i>Supplemental</i> ) Documents Served on October 28, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1309</u> Amended Notice of hearing ( <i>Second Amended Notice of Hearing</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i> ) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u> , filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s) <u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u> ) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing ( <i>Second Amended Notice of Hearing</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion</i>

	<p>for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
11/20/2020	<p>1462 Hearing held on 11/20/2020. (RE: related document(s)<u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P., (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.,) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.) (Edmond, Michael) (Entered: 11/23/2020)</p>
11/20/2020	<p>1463 Hearing held on 11/20/2020. (RE: related document(s)<u>1215</u> Redeemer Committee of the Highland Crusader Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # 1 Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.) (Edmond, Michael) (Entered: 11/23/2020)</p>
11/20/2020	<p>1464 Hearing held on 11/20/2020. (RE: related document(s)<u>1338</u> Motion to allow claims (Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018) filed by Interested Parties UBS AG London Branch, UBS Securities LLC.,) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as follows: UBS shall have a voting claim estimated at \$94.76 million. Counsel for UBS to submit an Order.) (Edmond, Michael) (Entered: 11/23/2020)</p>
11/23/2020	<p><u>1458</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s)<u>1456</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s)<u>1369</u> Amended notice of appeal). Appellee designation due by 12/4/2020.) Responses due by 11/25/2020. (Blanco, J.)</p>
11/23/2020	<p><u>1459</u> Reply to (related document(s): <u>1447</u> Response filed by Interested Party James Dondero) (<i>Debtor's Reply in Support of the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
11/23/2020	<p><u>1460</u> Withdrawal filed by Interested Party James Dondero (RE: related document(s)<u>1447</u> Response). (Assink, Bryan)</p>
11/23/2020	<p><u>1461</u> Objection to (related document(s): <u>1443</u> Motion for expedited hearing(related documents <u>1439</u> Motion for leave) (<i>Request for Emergency Hearing on James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Co</i> filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>

11/23/2020	<u>1465</u> Reply to (related document(s): <u>1461</u> Objection filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
11/23/2020	<u>1466</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1347</u> Notice of appeal). Appellee designation due by 12/7/2020. (Assink, Bryan)
11/23/2020	<u>1467</u> Notice of hearing filed by Interested Party James Dondero (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order)). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , (Assink, Bryan)
11/23/2020	<u>1468</u> Certificate of service re: <i>re: 1) WebEx Meeting Invitation to participate electronically in the hearing on Tuesday, November 20, 2020 at 9:30 a.m. Central Time before the Honorable Stacey G. Jernigan; 2) Instructions for any counsel and parties who wish to participate in the Hearing; and 3) Debtors Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1413</u> Witness and Exhibit List ( <i>Debtor's Witness and Exhibit List for November 20, 2020 Hearing on Motions for Partial Summary Judgment on the UBS Claim and Motion for Temporary Allowance of the UBS Claim</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1214</u> Motion for summary judgment, <u>1215</u> Motion for summary judgment, <u>1338</u> Motion to allow claims( <i>Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018</i> )). (Attachments: # 1 Exhibit 30) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/23/2020	<u>1469</u> Certificate of service re: <i>1) Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements; and 2) Debtors Motion for an Expedited Hearing on the Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreement</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1424</u> Motion for leave ( <i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) filed by Debtor Highland Capital Management, L.P., <u>1425</u> Motion for expedited hearing(related documents <u>1424</u> Motion for leave) ( <i>Debtor's Motion for an Expedited Hearing on the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreement</i> ) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/23/2020	<u>1470</u> Certificate of service re: <i>Documents Served on November 19, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1434</u> Notice of hearing ( <i>Notice of Hearing on Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1424</u> Motion for leave ( <i>Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u> , filed by Debtor Highland Capital Management, L.P., <u>1435</u> Stipulation by Highland Capital Management, L.P. and MCS Capital, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1166</u> Assignment/Transfer of claim (Claims Agent)). filed by Debtor Highland Capital Management, L.P., <u>1436</u> Order granting motion for expedited hearing (Related Doc <u>1425</u> )(document set for hearing: <u>1424</u> Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1424</u> , Entered on 11/19/2020. (Okafor, M.), <u>1437</u> Notice ( <i>Notice of</i>

	<i>Agenda of Matters Scheduled for Hearing on November 20, 2020 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/23/2020	1478 Hearing held on 11/23/2020. (RE: related document(s) <u>1424</u> Motion for leave (Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 11/24/2020)
11/23/2020	1479 Hearing held on 11/23/2020. (RE: related document(s) <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement).) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Disclosure Statement approved as adequate. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.) (Edmond, Michael) (Entered: 11/24/2020)
11/23/2020	1480 Hearing held on 11/23/2020. (RE: related document(s) <u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.) (Edmond, Michael) (Entered: 11/24/2020)
11/24/2020	<u>1471</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>1154</u> Motion for leave <i>to Amend Certain Proofs of Claim</i> Filed by Creditor The Dugaboy Investment Trust Objections due by 10/30/2020. (Attachments: # 1 Proposed Order)) Responses due by 12/8/2020. (Ecker, C.)
11/24/2020	<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). (Annable, Zachery)
11/24/2020	<u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). (Annable, Zachery)
11/24/2020	<u>1474</u> Order Granting Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty (related document # <u>1281</u> ) Entered on 11/24/2020. (Okafor, M.)
11/24/2020	<u>1475</u> Order Granting Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements (related document # <u>1424</u> ) Entered on 11/24/2020. (Okafor, M.)
11/24/2020	<u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital



	Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)
11/24/2020	<u>1477</u> Order approving stipulation resolving proof of claim no. 148 filed by Lynn Pinker Cox & Hurst, LLP (RE: related document(s) <u>1435</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 11/24/2020 (Okafor, M.)
11/25/2020	<u>1481</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s) <u>1466</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1347</u> Notice of appeal). Appellee designation due by 12/7/2020.) Responses due by 12/2/2020. (Blanco, J.)
11/25/2020	<u>1482</u> Transcript regarding Hearing Held 11/20/2020 (223 pages) RE: Motions for Partial Summary Judgment; Motion to Allow Claims for Voting Purposes. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/23/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1462 Hearing held on 11/20/2020. (RE: related document(s) <u>1214</u> Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS Securities LLC and UBS AG, London Branch filed by Debtor Highland Capital Management, L.P., (RE: Related document(s) <u>928</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.), 1463 Hearing held on 11/20/2020. (RE: related document(s) <u>1215</u> Redeemer Committee of the Highland Crusander Fund and the Crusader Funds' Motion for partial summary judgment on proof of claim(s) 190 and 191 of UBS AG, London Branch and UBS Securities LLC filed by Interested Party Redeemer Committee of the Highland Crusader Fun and the Crusader's Funds' (Attachments: # 1 Proposed Order) (RE: Related document(s) <u>933</u> Objection to claim filed by Interested Party Redeemer Committee of the Highland Crusader Fund). (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as announced on the record. Counsel to submit an Order and Judgment.), 1464 Hearing held on 11/20/2020. (RE: related document(s) <u>1338</u> Motion to allow claims (Motion for Temporary Allowance of Claims for voting Purposes Pursuant to Federal Rule of Bankruptcy Procedure 3018) filed by Interested Parties UBS AG London Branch, UBS Securities LLC.) (Appearances: R. Feinstein and J. Pomeranz for Debtor; T. Mascherin, M. Hankin, and M. Platt for Crusader Funds; A. Clubok K. Posin and S. Tomkowiak for UBS. Motion granted as follows: UBS shall have a voting claim estimated at \$94.76 million. Counsel for UBS to submit an Order.)). Transcript to be made available to the public on 02/23/2021. (Rehling, Kathy)
11/25/2020	<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B/Proposed Order # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H) (O'Neil, Holland)
11/25/2020	<u>1484</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1456</u> Appellant designation, Statement of issues on appeal). (Sosland, Martin)

11/25/2020	<u>1485</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
11/26/2020	<u>1486</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1474</u> Order Granting Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty (related document <u>1281</u> ) Entered on 11/24/2020. (Okafor, M.)) No. of Notices: 1. Notice Date 11/26/2020. (Admin.)
11/26/2020	<u>1487</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1477</u> Order approving stipulation resolving proof of claim no. 148 filed by Lynn Pinker Cox & Hurst, LLP (RE: related document(s) <u>1435</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 11/24/2020 (Okafor, M.)) No. of Notices: 1. Notice Date 11/26/2020. (Admin.)
11/27/2020	<u>1488</u> Certificate of service re: <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from October 1, 2020 through October 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1449</u> Amended application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020 (amended solely to include Exhibit A)</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/1/2020 to 10/31/2020, Fee: \$1,119,675.50, Expenses: \$19,132.28. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/11/2020. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/30/2020	<u>1489</u> Order granting motion to continue hearing on (related document # <u>1485</u> ) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> ) Hearing to be held on 12/10/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 11/30/2020. (Ecker, C.)
11/30/2020	<u>1490</u> Application for compensation <i>Sidley Austin LLP's Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/1/2020 to 10/31/2020, Fee: \$537,841.80, Expenses: \$3,125.47. Filed by Objections due by 12/21/2020. (Hoffman, Juliana)
11/30/2020	<u>1491</u> Motion for relief from stay Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 12/14/2020. (Attachments: # <u>1</u> Exhibit Declaration of Patrick Daugherty in Support of Motion to Lift the Automatic Stay) (Kathman, Jason)
12/01/2020	<u>1492</u> Clerk's correspondence requesting exhibits from attorney for plaintiff. (RE: related document(s) <u>1484</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1456</u> Appellant designation, Statement of issues on appeal.) Responses due by 12/14/2020. (Blanco, J.)
12/01/2020	<u>1493</u> Debtor-in-possession monthly operating report for filing period October 1, 2020 to October 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/01/2020	<u>1494</u> Notice of hearing on <i>Daugherty's Motion to Lift the Automatic Stay</i> filed by Creditor Patrick Daugherty (RE: related document(s) <u>1491</u> Motion for relief from stay Fee amount \$181, Filed by Creditor Patrick Daugherty Objections due by 12/14/2020. (Attachments: # <u>1</u> Exhibit Declaration of Patrick Daugherty in Support of Motion to Lift the Automatic Stay)). Preliminary hearing to be held on 12/17/2020 at 01:30 PM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Creditor Matrix) (Kathman, Jason)
12/01/2020	<u>1495</u> Certificate of service re: <i>1) Debtor's Reply in Support of the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer</i>

	<p><i>Agreements; and 2) Debtors Objection to Request for Emergency Hearing Filed by James Dondero [Docket No. 1443] Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1459</u> Reply to (related document(s): <u>1447</u> Response filed by Interested Party James Dondero) (Debtor's Reply in Support of the Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1461</u> Objection to (related document(s): <u>1443</u> Motion for expedited hearing(related documents <u>1439</u> Motion for leave) (Request for Emergency Hearing on James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Co filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
12/01/2020	<p><u>1496</u> Certificate of service re: 1) Order Granting Patrick Hagaman Daughertys Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018; 2) Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authority to Enter Into Sub-Servicer Agreements; and 3) Order Approving Stipulation Resolving Proof of Claim No. 148 Filed by Lynn Pinker Cox &amp; Hurst, LLP Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1474</u> Order Granting Motion for Temporary Allowance of Claim for Voting Purposes Pursuant to Bankruptcy Rule 3018 Filed by Creditor Patrick Daugherty (related document <u>1281</u>) Entered on 11/24/2020. (Okafor, M.), <u>1475</u> Order Granting Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements (related document <u>1424</u>) Entered on 11/24/2020. (Okafor, M.), <u>1477</u> Order approving stipulation resolving proof of claim no. 148 filed by Lynn Pinker Cox &amp; Hurst, LLP (RE: related document(s) <u>1435</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 11/24/2020 (Okafor, M.)). (Kass, Albert)</p>
12/01/2020	<p><u>1497</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. , Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1466</u> Appellant designation, Statement of issues on appeal). (Assink, Bryan)</p>
12/02/2020	<p>Receipt of filing fee for Motion for relief from stay(19-34054-sgi11) [motion,mrlfsty] ( 181.00). Receipt number 28309234, amount \$ 181.00 (re: Doc# <u>1491</u>). (U.S. Treasury)</p>
12/02/2020	<p><u>1498</u> Notice of hearing filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland)). Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1483</u>, (O'Neil, Holland)</p>
12/02/2020	<p><u>1499</u> Certificate of service re: 1) <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 Through October 31, 2020</i>; and 2) <i>Joint Motion to Continue Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP, <u>1485</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass,</p>

	Albert)
12/03/2020	<u>1500</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Katten Muchin Rosenman LLP (Claim No. 26, Amount \$16,695.00) To Cedar Glade LP. Filed by Creditor Cedar Glade LP. (Attachments: # <u>1</u> Evidence of Transfer) (Tanabe, Kesha)
12/03/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28312406, amount \$ 26.00 (re: Doc# <u>1500</u> ). (U.S. Treasury)
12/03/2020	<u>1501</u> Request for transcript regarding a hearing held on 11/23/2020. The requested turn-around time is hourly. (Edmond, Michael)
12/03/2020	<u>1502</u> Stipulation by James Dondero and Highland Capital Management, L.P.. filed by Interested Party James Dondero (RE: related document(s) <u>1179</u> Objection to claim). (Assink, Bryan)
12/03/2020	<u>1503</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from October 1, 2020 through October 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>342</u> Order granting application to employ Development Specialists, Inc. to Provide a Chief Restructuring Officer, Additional Personnel, and Financial Advisory and Restructuring-Related Services for Such Debtor, Nunc Pro Tunc as of the Petition Date (related document <u>74</u> ) Entered on 1/10/2020. (Okafor, M.), <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
12/03/2020	<u>1504</u> Certificate of service re: Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from October 1, 2020 through October 31, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1503</u> Notice (generic)). (Annable, Zachery)
12/03/2020	<u>1505</u> Certificate of service re: <i>Debtor's Notice of Affidavit of Publication of the Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm Plan; and (III) Related Important Dates in the New York Times</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). (Kass, Albert)
12/03/2020	<u>1506</u> Certificate of service re: <i>1) Order Granting Joint Motion to Continue Hearing; and 2) Twelfth Monthly Application of Sidley Austin for Allowance of Compensation and Reimbursement of Expenses for the Period from October 1, 2020 to and Including October 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1489</u> Order granting motion to continue hearing on (related document <u>1485</u> ) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> ) Hearing to be held on 12/10/2020 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 11/30/2020. (Ecker, C.), <u>1490</u> Application for compensation <i>Sidley Austin LLP's Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/1/2020 to 10/31/2020, Fee: \$537,841.80, Expenses: \$3,125.47. Filed by Objections due by 12/21/2020. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
12/03/2020	



	<p><u>1507</u> Transcript regarding Hearing Held 11/23/2020 (42 pages) RE: Disclosure Statement Hearing; Motion to Enter into Sub-Servicer Agreements; Motion for Order Shortening Time. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/3/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1478 Hearing held on 11/23/2020. (RE: related document(s)<u>1424</u> Motion for leave (Motion of the Debtor Pursuant to 11 U.S.C. 105(a) and 363(b) for Authority to Enter into Sub-Servicer Agreements) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Counsel to upload order.), 1479 Hearing held on 11/23/2020. (RE: related document(s)<u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement).) (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Disclosure Statement approved as adequate. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.), 1480 Hearing held on 11/23/2020. (RE: related document(s)<u>1108</u> Motion for leave (Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz and G. Demo for Debtor; M. Clemente for UCC; J. Kathman for P. Daugherty; B. Assink for J. Dondero. Nonevidentiary hearing. Court heard report of various amendments that have been negotiated. Motion granted. Confirmation hearing will be held 1/13/21 at 9:30 am and continuing on 1/14/21 at 9:30 (if necessary). Counsel to upload order.)). Transcript to be made available to the public on 03/3/2021. (Rehling, Kathy)</p>
12/03/2020	<p><u>1883</u> INCORRECT ENTRY – Agreed Notice of voluntary dismissal of appeals filed by Allied World Assurance Company (RE: related document(s)<u>1347</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s)<u>1302</u> Order on motion to compromise controversy). Appellant Designation due by 11/23/2020. (Attachments: # 1 Order)). (Blanco, J.) Modified on 2/2/2021 (Blanco, J.). (Entered: 02/02/2021)</p>
12/04/2020	<p><u>1508</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Daniel Sheehan &amp; Associates, PLLC (Claim No. 47, Amount \$32,433.75) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)</p>
12/04/2020	<p><u>1509</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Vengroff Williams Inc (American Arbitration Assoc (Claim No. 33, Amount \$12,911.80) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)</p>
12/04/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] ( 26.00). Receipt number 28315512, amount \$ 26.00 (re: Doc# <u>1508</u>). (U.S. Treasury)</p>
12/04/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] ( 26.00). Receipt number 28315512, amount \$ 26.00 (re: Doc# <u>1509</u>). (U.S. Treasury)</p>
12/04/2020	

	<p><u>1510</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 138 and 188 (RE: related document(s)<u>1502</u> Stipulation filed by Interested Party James Dondero). Entered on 12/4/2020 (Ecker, C.)</p>
12/04/2020	<p><u>1511</u> Certificate of service re: <i>(Supplemental) Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1300</u> Notice of hearing (<i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u>, filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s)<u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u>) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing (<i>Second Amended Notice of Hearing</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1108</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
12/07/2020	<p><u>1512</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Foley Gardere, Foley Lardner LLP To Hain Capital Investors Master Fund, Ltd. Filed by Creditor Hain Capital Group, LLC. (Rapoport, Amanda)</p>
12/07/2020	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgi11) [claims,trclmagt] ( 26.00). Receipt number 28320856, amount \$ 26.00 (re: Doc# <u>1512</u>). (U.S. Treasury)</p>

12/07/2020	<u>1513</u> Application for compensation <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/1/2020 to 10/31/2020, Fee: \$196,216.20, Expenses: \$264.23. Filed by Attorney Juliana Hoffman Objections due by 12/28/2020. (Hoffman, Juliana)
12/07/2020	<u>1514</u> Adversary case 20–03190. Complaint by Highland Capital Management, L.P. against James D. Dondero. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Cover Sheet). Nature(s) of suit: 72 (Injunctive relief – other). (Annable, Zachery)
12/07/2020	<u>1515</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party James Dondero (RE: related document(s) <u>1466</u> Appellant designation, Statement of issues on appeal, <u>1497</u> Appellant designation, Statement of issues on appeal). (Assink, Bryan)
12/07/2020	<u>1516</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1347</u> Notice of appeal, Modified LINKAGE AND TEXT on 3/12/2021 (Blanco, J.).
12/07/2020	<u>1517</u> Appellee designation of contents for inclusion in record of appeal filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P. (RE: related document(s) <u>1347</u> Notice of appeal). (Chiarello, Annmarie)
12/08/2020	<u>1518</u> Order temporarily granting UBS' motion to allow claim number(s) (related document # <u>1338</u> ) Entered on 12/8/2020. (Ecker, C.)
12/08/2020	<u>1519</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>1280</u> Motion for leave to <i>Amend Proof of Claim No. 77</i> Filed by Creditor Patrick Daugherty Objections due by 11/16/2020. (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Second Amended Proof of Claim)) Responses due by 12/22/2020. (Ecker, C.)
12/08/2020	<u>1520</u> Application for compensation ( <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 8/1/2020 to 12/31/2020, Fee: \$27,465.00, Expenses: \$859.43. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—August 2020 Invoice) (Annable, Zachery)
12/08/2020	<u>1521</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 11/1/2020 to 11/30/2020, Fee: \$759,428.00, Expenses: \$1,672.80. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/29/2020. (Pomerantz, Jeffrey)
12/08/2020	<u>1522</u> INCORRECT EVENT: See # <u>1528</u> for correction. Motion to compel Temporary Restriction of Sales by Non–Debtors CLOs. Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Attachments: # <u>1</u> Affidavit # <u>2</u> Proposed Order) (Varshosaz, Artoush) Modified on 12/9/2020 (Ecker, C.).
12/08/2020	<u>1523</u> Motion for expedited hearing(related documents <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund. Modified linkage on 12/9/2020 (Ecker, C.).

12/08/2020	<u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P. , Highland Fixed Income Fund , NexPoint Advisors, L.P. , NexPoint Capital, Inc. , NexPoint Strategic Opportunities Fund . (Ecker, C.) (Entered: 12/09/2020)
12/09/2020	<u>1524</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/09/2020	<u>1525</u> Request for transcript regarding a hearing held on 1/9/2020. The requested turn-around time is hourly. (Edmond, Michael)
12/09/2020	<u>1526</u> Order granting partial summary judgment (related document # <u>1214</u> ) Entered on 12/9/2020. (Ecker, C.)
12/09/2020	<u>1527</u> Order granting joint motion to continue hearing on (related document # <u>1524</u> ) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> ) Entered on 12/9/2020. (Ecker, C.)
12/09/2020	<u>1529</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1179</u> Objection to claim). (Annable, Zachery)
12/09/2020	<u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic)) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 12/30/2020. (Montgomery, Paige)
12/09/2020	<u>1531</u> Application for compensation ( <i>Tenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from September 1, 2020 through September 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 9/1/2020 to 9/30/2020, Fee: \$25,075.00, Expenses: \$132.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A September 2020 Invoice) (Annable, Zachery)
12/09/2020	<u>1532</u> Notice ( <i>Notice of Stipulation Resolving Proof of Claim No. 164 Filed by Berkeley Research Group, LLC</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/10/2020	<u>1533</u> Order granting motion to amend proof of claim #77 and to file supporting documents under seal. (related document # <u>1280</u> ) Entered on 12/10/2020. (Ecker, C.)
12/10/2020	<u>1534</u> Order granting <u>1530</u> Motion to extend time. (Re: related document(s) <u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic))) Entered on 12/10/2020. (Ecker, C.)
12/10/2020	<u>1535</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # <u>1</u> Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1207</u> , (Annable, Zachery)
12/10/2020	<u>1536</u> Stipulation by Highland Capital Management, L.P. and NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>906</u> Objection to claim). (Annable, Zachery)
12/10/2020	<u>1537</u> Order regarding objection to claim number(s) (RE: related document(s) <u>1179</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on



	12/10/2020 (Ecker, C.)
12/10/2020	<u>1538</u> Order approving stipulation resolving proof of claim #164 (RE: related document(s) <u>1532</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.)
12/10/2020	<u>1539</u> Notice of hearing on <i>Motion Imposing Restrictions on Debtor's Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. (Ecker, C.)). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1528</u> , (Varshosaz, Artoush)
12/10/2020	<u>1540</u> Certificate of service re: <i>Twelfth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from October 1, 2020 to and Including October 31, 2020; and 2) Appellees Counter-Designation of Record on Appeal</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1513</u> Application for compensation <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/1/2020 to 10/31/2020, Fee: \$196,216.20, Expenses: \$264.23. Filed by Attorney Juliana Hoffman Objections due by 12/28/2020. filed by Financial Advisor FTI Consulting, Inc., <u>1516</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1347</u> Notice of appeal, <u>1369</u> Amended notice of appeal). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/10/2020	<u>1541</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1518</u> Order temporarily granting UBS' motion to allow claim number(s) (related document <u>1338</u> ) Entered on 12/8/2020. (Ecker, C.)) No. of Notices: 2. Notice Date 12/10/2020. (Admin.)
12/11/2020	<u>1542</u> Support/supplemental document/ <i>Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor</i> filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Proposed Order /Exhibit E) (O'Neil, Holland)
12/11/2020	<u>1543</u> Transcript regarding Hearing Held 01/09/2020 (91 pages) RE: Motion to Compromise Controversy (#281). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/11/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) Hearing held on 1/9/2020. (RE: related document(s) <u>281</u> Motion to compromise controversy with Official Committee of Unsecured Creditors, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomerantz, I. Kharasch, G. Demo, M. Hayward, and Z. Annabel for Debtor; M. Clemente, P. Reid and D. Tumi for Unsecured Creditors Committee; A. Chiarello and R. Patel for Asic; L. Lambert for UST; J. Bentley and J. Bain (both telephonically) for CLO and CDO Issuer Group; T. Mascherin and M. Hankin (telephonically) for Redeemer Committee; P. Maxcy (telephonically) for Jeffries. Evidentiary hearing. Motion granted. Counsel to upload appropriate form of order.)). Transcript to be made available to the public on 03/11/2021. (Rehling, Kathy)

12/11/2020	<u>1544</u> Application for compensation ( <i>First Interim Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP (Hesse, Gregory)
12/11/2020	<u>1545</u> Application for compensation ( <i>Hayward &amp; Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward & Associates PLLC (Attachments: # <u>1</u> Exhibit A—H&A Invoices for July, August, and September 2020) (Annable, Zachery)
12/11/2020	<u>1546</u> Objection to (related document(s): <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ) filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2020	<u>1547</u> Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021. (Pomerantz, Jeffrey)
12/11/2020	<u>1548</u> Notice to take deposition of James P. Seery, Jr. filed by Interested Party James Dondero. (Assink, Bryan)
12/11/2020	<u>1549</u> Notice to take deposition of John Dubel filed by Interested Party James Dondero. (Assink, Bryan)
12/11/2020	<u>1550</u> Notice to take deposition of Russell Nelms filed by Interested Party James Dondero. (Assink, Bryan)
12/11/2020	<u>1551</u> Objection to (related document(s): <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ) filed by Interested Party James Dondero) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
12/11/2020	<u>1552</u> Application for compensation ( <i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020</i> ) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)
12/11/2020	<u>1553</u> Omnibus Notice of hearing ( <i>Omnibus Notice of Hearing on Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1410</u> Certificate Amended Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10., <u>1407</u> Certificate (generic))., <u>1416</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,86)., <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of</i>

	<p><i>Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020 for Foley Gardere, Foley &amp; Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland), <a href="#">1542</a> Support/supplemental document/Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP (RE: related document(s)<a href="#">1483</a> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020 for Foley Ga.</i> (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order /Exhibit E) (O'Neil, Holland), <a href="#">1544</a> Application for compensation (<i>First Interim Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP, <a href="#">1545</a> Application for compensation (<i>Hayward &amp; Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—H&amp;A Invoices for July, August, and September 2020), <a href="#">1547</a> Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021., <a href="#">1552</a> Application for compensation (<i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A # 2 Exhibit B)). Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for <a href="#">1483</a> and for <a href="#">1544</a> and for <a href="#">1545</a> and for <a href="#">1547</a> and for <a href="#">1552</a> and for <a href="#">1410</a> and for <a href="#">1416</a> and for <a href="#">1542</a>, (Annable, Zachery)</i></p>
12/11/2020	<a href="#">1554</a> Notice to take deposition of Dustin Norris filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2020	<a href="#">1555</a> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/11/2020	<a href="#">1556</a> Certificate of service re: 1) <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ; and 2) <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">1520</a> Application for compensation ( <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 8/1/2020 to 12/31/2020, Fee: \$27,465.00, Expenses: \$859.43. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—August 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <a href="#">1521</a> Application for compensation <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 11/1/2020 to 11/30/2020, Fee: \$759,428.00, Expenses: \$1,672.80. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 12/29/2020. filed by Debtor Highland Capital Management,

	L.P.). (Kass, Albert)
12/11/2020	<u>1557</u> Certificate of service re: <i>Documents Served on December 9, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1524</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1526</u> Order granting partial summary judgment (related document <u>1214</u> ) Entered on 12/9/2020. (Ecker, C.), <u>1527</u> Order granting joint motion to continue hearing on (related document <u>1524</u> ) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> ) Entered on 12/9/2020. (Ecker, C.), <u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic)) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 12/30/2020. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1531</u> Application for compensation ( <i>Tenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from September 1, 2020 through September 30, 2020</i> ) for Hayward & Associates PLLC, Debtor's Attorney, Period: 9/1/2020 to 9/30/2020, Fee: \$25,075.00, Expenses: \$132.60. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A September 2020 Invoice) filed by Other Professional Hayward & Associates PLLC, <u>1532</u> Notice ( <i>Notice of Stipulation Resolving Proof of Claim No. 164 Filed by Berkeley Research Group, LLC</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/11/2020	<u>1639</u> Hearing set (RE: related document(s) <u>1244</u> Application for compensation <i>Third Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10. Filed by Attorney Juliana Hoffman Objections due by 11/10/2020., <u>1296</u> Application for compensation <i>Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,865,520.45, Expenses: \$18,678.47. Filed by Attorney Juliana Hoffman Objections due by 11/17/2020.) Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1296</u> and for <u>1244</u> , (Ellison, T.) (Entered: 12/29/2020)
12/12/2020	<u>1558</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/13/2020	<u>1559</u> WITHDRAWN per # <u>1622</u> Subpoena on Jean Paul Sevilla filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Sevilla Subpoena) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
12/13/2020	<u>1560</u> WITHDRAWN per # <u>1622</u> Subpoena on Russell Nelms filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Nelms Subpoena) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
12/13/2020	<u>1561</u> WITHDRAWN per # <u>1622</u> Subpoena on Fred Caruso filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Caruso Subpoena) (Assink, Bryan) Modified on 12/28/2020 (Ecker, C.).
12/14/2020	<u>1562</u> Order granting motion for expedited hearing (Related Doc# <u>1523</u> )(document set for hearing: <u>1528</u> Generic motion) Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1528</u> , Entered on 12/14/2020. (Ecker, C.)
12/14/2020	<u>1563</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> )). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u>



	Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8) (Assink, Bryan)
12/14/2020	<u>1564</u> Motion to quash ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/14/2020	<u>1565</u> Motion for protective order ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/14/2020	<u>1566</u> Notice to take deposition of James P. Seery, Jr. filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. (Varshosaz, Artoush)
12/14/2020	<u>1567</u> Motion for expedited hearing(related documents <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/14/2020	<u>1568</u> Order approving stipulation and pre-trial schedule concerning Proof of Claim No. 146 filed by HCRE Partners, LLC (RE: related document(s) <u>1536</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 12/14/2020 (Okafor, M.)
12/14/2020	<u>1569</u> Objection to (related document(s): <u>1491</u> Motion for relief from stay Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/14/2020	<u>1570</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Daugherty's Motion to Lift the Automatic Stay</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1569</u> Objection). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Annable, Zachery)
12/14/2020	<u>1571</u> Objection to (related document(s): <u>1564</u> Motion to quash ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena file filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
12/14/2020	<u>1572</u> Witness and Exhibit List filed by Creditor Patrick Daugherty (RE: related document(s) <u>1491</u> Motion for relief from stay Fee amount \$181.). (Attachments: # <u>1</u> Exhibit PHD-1 # <u>2</u> Exhibit PHD-2 # <u>3</u> Exhibit PHD-3 # <u>4</u> Exhibit PHD-4 # <u>5</u> Exhibit PHD-5 # <u>6</u> Exhibit PHD-6) (Kathman, Jason)
12/14/2020	<u>1573</u> Witness and Exhibit List filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund.). (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit) (Varshosaz, Artoush)
12/14/2020	<u>1574</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ), <u>1528</u> Motion by Highland Capital Management Fund

	Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund.). (Annable, Zachery)
12/15/2020	<u>1575</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1564</u> Motion to quash ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u> , (Annable, Zachery)
12/15/2020	<u>1576</u> Order granting motion for expedited hearing (Related Doc# <u>1567</u> )(document set for hearing: <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u> , Entered on 12/15/2020. (Okafor, M.)
12/15/2020	<u>1577</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to October 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
12/15/2020	<u>1578</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A-1 # <u>2</u> Exhibit A-2 # <u>3</u> Exhibit A-3 # <u>4</u> Exhibit B-1 # <u>5</u> Exhibit B-2 # <u>6</u> Exhibit B-3 # <u>7</u> Exhibit C (Part 1) # <u>8</u> Exhibit C (Part 2) # <u>9</u> Exhibit C (Part 3) # <u>10</u> Exhibit D (Part 1) # <u>11</u> Exhibit D (Part 2) # <u>12</u> Exhibit D (Part 3) # <u>13</u> Exhibit E # <u>14</u> Exhibit F # <u>15</u> Exhibit G) (Annable, Zachery)
12/15/2020	<u>1579</u> Amended Witness and Exhibit List ( <i>Debtor's Amended Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on December 16, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1574</u> List (witness/exhibit/generic)). (Annable, Zachery)
12/15/2020	<u>1580</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
12/15/2020	<u>1581</u> INCORRECT ENTRY: See # <u>1580</u> for correction. Joinder to debtor's response to motion for order imposing temporary restrictions on debtor's ability to initial sales by non-debtor CLO vehicles filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1578</u> Objection). (Ecker, C.) Modified on 12/16/2020 (Ecker, C.). (Entered: 12/16/2020)

12/16/2020	<u>1582</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: CVE Technologies Group Inc. (Amount \$1,500.00) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)
12/16/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgi11) [claims, trclmagt] ( 26.00). Receipt number 28347173, amount \$ 26.00 (re: Doc# <u>1582</u> ). (U.S. Treasury)
12/16/2020	<u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>816</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 1/6/2021. (Annable, Zachery)
12/16/2020	<u>1584</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1449</u> Amended application for compensation <i>Thirteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from October 1, 2020 through October 31, 2020 (amended solely to include Exhibit A)</i> for Jeffrey Nathan Pomer). (Pomerantz, Jeffrey)
12/16/2020	<u>1585</u> Court admitted exhibits date of hearing December 16, 2020 (RE: related document(s) <u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P. , Highland Fixed Income Fund , NexPoint Advisors, L.P. , NexPoint Capital, Inc. , NexPoint Strategic Opportunities Fund. (COURT ADMITTED EXHIBIT'S #A & #B BY JAMES WRIGHT) (Edmond, Michael)
12/16/2020	<u>1586</u> Request for transcript regarding a hearing held on 12/16/2020. The requested turn-around time is hourly. (Edmond, Michael)
12/16/2020	<u>1587</u> Certificate of service re: Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>816</u> Order on motion to extend/shorten time)). (Annable, Zachery)
12/16/2020	<u>1588</u> Certificate of service re: <i>Documents Served on December 10, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1534</u> Order granting <u>1530</u> Motion to extend time. (Re: related document(s) <u>1530</u> Motion to extend time to Time to File An Adversary Proceeding Against CLO Holdco, Ltd. (Agreed) (RE: related document(s) <u>1168</u> Order (generic))) Entered on 12/10/2020. (Ecker, C.), <u>1535</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1207</u> , filed by Debtor Highland Capital Management, L.P., <u>1536</u> Stipulation by Highland Capital Management, L.P. and NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>906</u> Objection to claim). filed by Debtor Highland Capital Management, L.P., <u>1537</u> Order regarding objection to claim number(s) (RE: related document(s) <u>1179</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.), <u>1538</u> Order approving stipulation resolving proof of claim #164 (RE: related document(s) <u>1532</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/10/2020 (Ecker, C.)). (Kass, Albert)
12/16/2020	<u>1589</u> Certificate of service re: <i>Documents Served on or Before December 12, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1542</u> Support/supplemental document/ <i>Supplement to the Third and Final Application for</i>

*Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor* filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s)[1483](#) Application for compensation *Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020* for Foley Ga). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order /Exhibit E) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP, [1544](#) Application for compensation (*First Interim Application*) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, [1545](#) Application for compensation (*Hayward & Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020*) for Hayward & Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward & Associates PLLC (Attachments: # 1 Exhibit A—H&A Invoices for July, August, and September 2020) filed by Other Professional Hayward & Associates PLLC, [1546](#) Objection to (related document(s): [1439](#) Motion for leave (*James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business*) filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., [1547](#) Application for compensation *Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020* for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021. filed by Debtor Highland Capital Management, L.P., [1551](#) Objection to (related document(s): [1439](#) Motion for leave (*James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business*) filed by Interested Party James Dondero) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors, [1552](#) Application for compensation (*Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020*) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, [1553](#) Omnibus Notice of hearing (*Omnibus Notice of Hearing on Interim Applications for Compensation and Reimbursement of Expenses of Estate Professionals*) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)[1410](#) Certificate Amended Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)[1244](#) Application for compensation *Third Interim Application for Compensation and Reimbursement of Expenses* for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2020 to 8/31/2020, Fee: \$886,615.45, Expenses: \$1,833.10., [1407](#) Certificate (generic)), [1416](#) Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)[1296](#) Application for compensation *Sidley Austin LLP's Third Interim Application for Compensation and Reimbursement of Expenses* for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2020 to 8/31/2020, Fee: \$1,86), [1483](#) Application for compensation *Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020* for Foley Gardere, Foley & Lardner LLP, Special Counsel, Period: 10/16/2019 to 10/31/2020, Fee: \$599,126.60, Expenses: \$11,433.73. Filed by Attorney Holland N. O'Neil Objections due by 12/16/2020. (Attachments: # 1 Exhibit A # 2 Exhibit B/Proposed Order # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H) (O'Neil, Holland), [1542](#) Support/supplemental document/*Supplement to the Third and Final Application for Compensation and Reimbursement of Expenses of Foley & Lardner LLP as Special Texas Counsel to the Debtor* filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s)[1483](#) Application for compensation *Third and Final Application for*



	<p><i>Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020 for Foley Ga). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Proposed Order /Exhibit E) (O'Neil, Holland), <u>1544</u> Application for compensation (<i>First Interim Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52. Filed by Spec. Counsel Hunton Andrews Kurth LLP, <u>1545</u> Application for compensation (<i>Hayward &amp; Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Attorney, Period: 7/1/2020 to 9/30/2020, Fee: \$82,325.00, Expenses: \$1,972.63. Filed by Other Professional Hayward &amp; Associates PLLC (Attachments: # 1 Exhibit A—H&amp;A Invoices for July, August, and September 2020), <u>1547</u> Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 8/1/2020 to 11/30/2020, Fee: \$3,380,111.50, Expenses: \$31,940.33. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 1/4/2021., <u>1552</u> Application for compensation (<i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period from July 1, 2020 through November 30, 2020</i>) for Wilmer Cutler Pickering Hale and Dorr LLP, Debtor's Attorney, Period: 7/1/2020 to 11/30/2020, Fee: \$709,256.22, Expenses: \$0.00. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (Attachments: # 1 Exhibit A # 2 Exhibit B)). Hearing to be held on 1/6/2021 at 02:30 PM Dallas Judge Jernigan Ctrm for <u>1483</u> and for <u>1544</u> and for <u>1545</u> and for <u>1547</u> and for <u>1552</u> and for <u>1410</u> and for <u>1416</u> and for <u>1542</u>, filed by Debtor Highland Capital Management, L.P., <u>1554</u> Notice to take deposition of Dustin Norris filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1555</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1558</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
12/16/2020	<p>1596 Hearing held on 12/16/2020. (RE: related document(s)<u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P. , Highland Fixed Income Fund , NexPoint Advisors, L.P. , NexPoint Capital, Inc. , NexPoint Strategic Opportunities Fund) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wright for Movants; M. Clemente for UCC; R. Matsumura for HCLOF; J. Bain for CLO Issuers. Evidentiary hearing. Motion denied. Counsel to upload order.) (Edmond, Michael) (Entered: 12/18/2020)</p>
12/16/2020	<p>1597 Hearing held on 12/16/2020. (RE: related document(s)<u>1564</u> Motion to quash (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.) (Edmond, Michael) (Entered: 12/18/2020)</p>
12/16/2020	<p>1598 Hearing held on 12/16/2020. (RE: related document(s)<u>1565</u> Motion for protective order (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.) (Edmond, Michael) (Entered: 12/18/2020)</p>

12/16/2020	<u>1599</u> Hearing held on 12/16/2020. (RE: related document(s) <u>1439</u> Motion for leave (James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business) filed by Interested Party James Dondero.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Movant will withdraw this order. Counsel to upload agreed order.) (Edmond, Michael) (Entered: 12/18/2020)
12/17/2020	<u>1590</u> Motion to pay ( <i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery)
12/17/2020	<u>1591</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Bates White LLC (Amount \$90,855.70) To Argo Partners. Filed by Creditor Argo Partners. (Gold, Matthew)
12/17/2020	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] ( 26.00). Receipt number 28350580, amount \$ 26.00 (re: Doc# <u>1591</u> ). (U.S. Treasury)
12/17/2020	<u>1592</u> Certificate of service re: <i>Documents Served on or Before December 16, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1564</u> Motion to quash ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1567</u> Motion for expedited hearing(related documents <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1568</u> Order approving stipulation and pre-trial schedule concerning Proof of Claim No. 146 filed by HCRE Partners, LLC (RE: related document(s) <u>1536</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 12/14/2020 (Okafor, M.), <u>1569</u> Objection to (related document(s): <u>1491</u> Motion for relief from stay Fee amount \$181, filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1570</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Objection to Patrick Daugherty's Motion to Lift the Automatic Stay</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1569</u> Objection). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E) filed by Debtor Highland Capital Management, L.P., <u>1574</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ), <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/17/2020	<u>1593</u> Certificate of service re: <i>Documents Served on December 15, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1575</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1564</u> Motion to quash ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> ) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P., <u>1565</u> Motion for protective order ( <i>Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment</i> )

	<p>Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u>, filed by Debtor Highland Capital Management, L.P., <u>1576</u> Order granting motion for expedited hearing (Related Doc <u>1567</u>)(document set for hearing: <u>1564</u> Motion to quash, <u>1565</u> Motion for protective order) Hearing to be held on 12/16/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1564</u> and for <u>1565</u>, Entered on 12/15/2020. (Okafor, M.), <u>1577</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to October 31, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>1578</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A-1 # 2 Exhibit A-2 # 3 Exhibit A-3 # 4 Exhibit B-1 # 5 Exhibit B-2 # 6 Exhibit B-3 # 7 Exhibit C (Part 1) # 8 Exhibit C (Part 2) # 9 Exhibit C (Part 3) # 10 Exhibit D (Part 1) # 11 Exhibit D (Part 2) # 12 Exhibit D (Part 3) # 13 Exhibit E # 14 Exhibit F # 15 Exhibit G) filed by Debtor Highland Capital Management, L.P., <u>1579</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on December 16, 2020</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1574</u> List (witness/exhibit/generic)). filed by Debtor Highland Capital Management, L.P., <u>1580</u> Objection to (related document(s): <u>1528</u> Motion by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested Party Highland Fixed Income Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
12/17/2020	<p><u>1594</u> Adversary case 20-03195. Complaint by Official Committee of Unsecured Creditors against CLO Holdco, Ltd., Charitable DAF Holdco, Ltd., Charitable DAF Fund, LP, Highland Dallas Foundation, Inc., The Dugaboy Investment Trust, Grant James Scott III, James D. Dondero. Fee Amount \$350. Nature(s) of suit: 13 (Recovery of money/property - 548 fraudulent transfer). 91 (Declaratory judgment). 72 (Injunctive relief - other). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Montgomery, Paige)</p>
12/17/2020	<p><u>1600</u> Hearing held on 12/17/2020. (RE: related document(s)<u>1491</u> Motion for relief from stay filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman. J. Pomerantz and J. Morris for debtor. Motion denied.) (Edmond, Michael) (Entered: 12/18/2020)</p>
12/18/2020	<p><u>1595</u> Notice of Appearance and Request for Notice <i>with Certificate of Service</i> by Douglas S. Draper filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)</p>
12/18/2020	<p><u>1601</u> Request for transcript regarding a hearing held on 12/17/2020. The requested turn-around time is daily. (Edmond, Michael)</p>
12/18/2020	<p><u>1602</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1590</u> Motion to pay (<i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)).</p>



	Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1590</u> , (Annable, Zachery)
12/18/2020	<u>1603</u> Order resolving motions and adjourning evidentiary hearing (RE: related document(s) <u>1439</u> Motion for leave filed by Interested Party James Dondero). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , Entered on 12/18/2020 (Ecker, C.)
12/18/2020	<u>1604</u> Certificate of No Objection filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (O'Neil, Holland)
12/18/2020	<u>1605</u> Order denying motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager , to initiate sales by non-debtor CLO Vehicles (related document # <u>1528</u> ) Entered on 12/18/2020. (Okafor, M.)
12/18/2020	<u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit I—Schedule of Contracts and Leases to Be Assumed # <u>2</u> Exhibit J—Amended Form of Senior Employee Stipulation # <u>3</u> Exhibit K—Redline of Form of Senior Employee Stipulation) (Annable, Zachery)
12/18/2020	<u>1607</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , (Annable, Zachery)
12/18/2020	<u>1608</u> Certificate of service re: ( <i>Supplemental</i> ) Documents Served on October 28, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1322</u> Certificate of service re: <i>Documents Served on October 28, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1300</u> Notice of hearing ( <i>Notice of Continued Hearing on Disclosure Statement for the Second Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1289</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement).). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1289</u> , filed by Debtor Highland Capital Management, L.P., <u>1301</u> Order approving stipulation resolving Proof of Claim No. 86 of NWCC, LLC (RE: related document(s) <u>1264</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 10/28/2020 (Okafor, M.), <u>1302</u> Order granting motion to compromise controversy with (A) Acis Capital Management, L.P. and Acis Capital Management GP LLC (Claim No. 23), (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156), and (C) Acis Capital Management, L.P. (Claim No. 159). Filed by Debtor Highland Capital Management, L.P. (related document <u>1087</u> ) Entered on 10/28/2020. (Okafor, M.), <u>1309</u> Amended Notice of hearing ( <i>Second Amended Notice of Hearing</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1108</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the First Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving</i>



	<p><i>Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice</i>) (related document(s) <u>1079</u> Chapter 11 plan, <u>1080</u> Disclosure statement) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit 1—Proposed Order # 2 Exhibit 1—A—Forms of Ballots # 3 Exhibit 1—B—Notice of Confirmation Hearing # 4 Exhibit 1—C—Notice of Non-Voting Status # 5 Exhibit 1—D—Notice of Assumption)). Hearing to be held on 11/23/2020 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1108</u>, filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
12/19/2020	<p><u>1609</u> Transcript regarding Hearing Held 12/17/2020 (38 pages) RE: Motion for Relief from Stay (#1491). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/19/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1600</u> Hearing held on 12/17/2020. (RE: related document(s) <u>1491</u> Motion for relief from stay filed by Creditor Patrick Daugherty.) (Appearances: J. Kathman. J. Pomerantz and J. Morris for debtor. Motion denied.)). Transcript to be made available to the public on 03/19/2021. (Rehling, Kathy)</p>
12/19/2020	<p><u>1610</u> Transcript regarding Hearing Held 12/16/2020 (66 pages) RE: Motions. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/19/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1596</u> Hearing held on 12/16/2020. (RE: related document(s) <u>1528</u> Motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles. Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wright for Movants; M. Clemente for UCC; R. Matsumura for HCLOF; J. Bain for CLO Issuers. Evidentiary hearing. Motion denied. Counsel to upload order.), <u>1597</u> Hearing held on 12/16/2020. (RE: related document(s) <u>1564</u> Motion to quash (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) (related documents <u>1559</u> Subpoena filed by Interested Party James Dondero, <u>1560</u> Subpoena filed by Interested Party James Dondero, <u>1561</u> Subpoena filed by Interested Party James Dondero) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.), <u>1598</u> Hearing held on 12/16/2020. (RE: related document(s) <u>1565</u> Motion for protective order (Debtor's Emergency Motion to Quash Subpoena and for Entry of a Protective Order or, in the Alternative, for an Adjournment) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Motion is moot and/or resolved. Counsel to upload agreed order.), <u>1599</u> Hearing held on 12/16/2020. (RE: related document(s) <u>1439</u> Motion for leave (James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business) filed by Interested Party James Dondero.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; M. Lynn and B. Assink for J. Dondero; M. Clemente for UCC. Nonevidentiary announcement of an agreement and, with agreement, Movant will withdraw this order. Counsel to upload agreed order.)). Transcript to be made available to the public on 03/19/2021. (Rehling, Kathy)</p>
12/19/2020	<p><u>1611</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1340</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 9/30/2020, Fee: \$170,859.60, Expenses: \$806.60.). (Hoffman, Juliana)</p>

12/21/2020	<u>1612</u> Order denying motion for relief from stay by Creditor Patrick Daugherty (related document # <u>1491</u> ) Entered on 12/21/2020. (Okafor, M.)
12/21/2020	<u>1613</u> Certificate of service re: <i>re: 1) Instructions for any counsel and parties who wish to participate in the Hearing; 2) Joinder of the Official Committee of Unsecured Creditors to Debtor's Response to Motion for Order Imposing Temporary Restrictions on Debtor's Ability, as Portfolio Manager, to Initiate Sales by Non-Debtor CLO Vehicles; and 3) Debtors Motion Pursuant to the Protocols for Authority for Highland and Multi</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1581</u> INCORRECT ENTRY: See <u>1580</u> for correction. Joinder to debtor's response to motion for order imposing temporary restrictions on debtor's ability to initial sales by non-debtor CLO vehicles filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1578</u> Objection). (Ecker, C.) Modified on 12/16/2020 (Ecker, C.). filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1590</u> Motion to pay ( <i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/22/2020	<u>1614</u> Notice ( <i>Notice of Stipulation Resolving Proof of Claim No. 99 Filed by Hunton Andrews Kurth LLP</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
12/22/2020	<u>1615</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1490</u> Application for compensation <i>Sidley Austin LLP's Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/1/2020 to 10/31/2020, Fee: \$). (Hoffman, Juliana)
12/22/2020	<u>1616</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1283</u> Application for compensation <i>Eleventh Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 9/30/2020, Fee: \$356,889.96, Expenses: &#03). (Hoffman, Juliana)
12/23/2020	<u>1617</u> Order approving stipulation resolving Proof of Claim No. 99 filed by Hunton Andrews Kurth LLP (RE: related document(s) <u>1614</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2020 (Okafor, M.)
12/23/2020	<u>1618</u> Notice ( <i>Notice of Filing of Fifth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
12/23/2020	<u>1619</u> Declaration re: ( <i>Disclosure Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
12/23/2020	<u>1620</u> Motion to appear pro hac vice for A. Lee Hogewood. Fee Amount \$100 Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Income

	Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Varshosaz, Artoush)
12/23/2020	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28366971, amount \$ 100.00 (re: Doc# <u>1620</u> ). (U.S. Treasury)
12/23/2020	<u>1621</u> Declaration re: ( <i>Disclosure Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
12/23/2020	<u>1622</u> Withdrawal ( <i>Notice of Withdrawal of James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business and Related Notices of Subpoena</i> ) filed by Interested Party James Dondero (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> )). (Assink, Bryan)
12/23/2020	<u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Hayward, Melissa)
12/23/2020	<u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Hayward, Melissa)
12/23/2020	<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
12/23/2020	<u>1626</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/13/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u> , (Annable, Zachery)
12/23/2020	<u>1627</u> Certificate of service re: <i>Documents Served on December 18, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1602</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1590</u> Motion to pay ( <i>Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1590</u> , filed by Debtor Highland Capital Management, L.P., <u>1603</u> Order resolving motions and adjourning evidentiary hearing (RE: related document(s) <u>1439</u> Motion for leave filed by Interested Party James Dondero). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , Entered on 12/18/2020 (Ecker, C.), <u>1605</u> Order denying motion for order imposing temporary restrictions on Debtor's ability, as portfolio manager, to initiate sales by non-debtor CLO Vehicles (related document <u>1528</u> ) Entered on 12/18/2020. (Okafor, M.), <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation) filed by Debtor Highland Capital Management, L.P., <u>1607</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1439</u> Motion for leave ( <i>James Dondero's Motion for Entry of an Order</i>

	<i>Requiring Notice and Hearing for Future Estate Transactions Occurring Outside the Ordinary Course of Business</i> ) Filed by Interested Party James Dondero (Attachments: # 1 Proposed Order)). Hearing to be held on 1/4/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1439</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/23/2020	<u>1628</u> Certificate of service re: <i>Order Denying Patrick Daughertys Motion to Lift the Automatic Stay</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1612</u> Order denying motion for relief from stay by Creditor Patrick Daugherty (related document <u>1491</u> ) Entered on 12/21/2020. (Okafor, M.) filed by Creditor Patrick Daugherty). (Kass, Albert)
12/23/2020	<u>1629</u> Certificate of service re: <i>Stipulation Resolving Proof of Claim No. 99 Filed by Hunton Andrews Kurth LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1614</u> Notice ( <i>Notice of Stipulation Resolving Proof of Claim No. 99 Filed by Hunton Andrews Kurth LLP</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/23/2020	<u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). (Kass, Albert)
12/24/2020	<u>1631</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7) (Annable, Zachery)
12/24/2020	<u>1632</u> Application for compensation <i>Sidley Austin LLP's Thirteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/1/2020 to 11/30/2020, Fee: \$401,659.92, Expenses: \$3,643.80. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. (Hoffman, Juliana)
12/24/2020	<u>1633</u> Application for compensation <i>Thirteenth Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/1/2020 to 11/30/2020, Fee: \$201,148.56, Expenses: \$408.64. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. (Hoffman, Juliana)
12/24/2020	<u>1634</u> Support/supplemental document ( <i>Exhibit A to the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Annable, Zachery)



12/26/2020	<p><u>1635</u> Declaration re: <i>Supplemental Declaration of Matthew Clemente</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T</i>). (Hoffman, Juliana)</p>
12/28/2020	<p><u>1636</u> Agreed order granting <u>1623</u> Motion to extend deadline to assume unexpired nonresidential real property lease and setting motion to assume for hearing at confirmation. Entered on 12/28/2020. (Okafor, M.)</p>
12/28/2020	<p><u>1637</u> Certificate of service re: <i>(Supplemental) Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
12/28/2020	<p><u>1638</u> Certificate of service re: <i>Documents Served on December 23, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1617</u> Order approving stipulation resolving Proof of Claim No. 99 filed by Hunton Andrews Kurth LLP (RE: related document(s)<u>1614</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 12/23/2020 (Okafor, M.), <u>1618</u> Notice (<i>Notice of Filing of Fifth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P., <u>1619</u> Declaration re: <i>(Disclosure Declaration of Ordinary Course Professional)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>1621</u> Declaration re: <i>(Disclosure Declaration of Ordinary Course Professional)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/29/2020	<p><u>1640</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)<u>1513</u> Application for compensation <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 10/1/2020 to 10/31/2020, Fee: \$196,216.20, Expenses: \$264.23.). (Hoffman,</p>

	Juliana)
12/30/2020	<u>1641</u> Order granting motion to appear pro hac vice adding A. Lee Hogewood, III for Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (related document # <u>1620</u> ) Entered on 12/30/2020. (Okafor, M.)
12/30/2020	<u>1642</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>1520</u> Application for compensation ( <i>Ninth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ) for Hayward & Ass). (Annable, Zachery)
12/30/2020	<u>1643</u> Agreed Motion to substitute attorney David Neier with Frances A. Smith, Michelle Hartmann, and Debra A. Dandeneau Filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (Attachments: # <u>1</u> Proposed Order) (Smith, Frances)
12/30/2020	<u>1644</u> Notice of Appearance and Request for Notice by Frances Anne Smith filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Smith, Frances)
12/30/2020	<u>1645</u> Certificate of service re: Senior Employees Agreed Motion to Withdraw and Substitute Counsel of Record and Notice of Appearance filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1643</u> Agreed Motion to substitute attorney David Neier with Frances A. Smith, Michelle Hartmann, and Debra A. Dandeneau, <u>1644</u> Notice of appearance and request for notice). (Smith, Frances)
12/30/2020	<u>1646</u> Certificate of service re: <i>Documents Served on or Before December 24, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1626</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/13/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u> , filed by Debtor Highland Capital Management, L.P., <u>1631</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7) filed by Debtor Highland Capital Management, L.P., <u>1632</u> Application for compensation <i>Sidley Austin LLP's Thirteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/1/2020 to 11/30/2020, Fee: \$401,659.92, Expenses: \$3,643.80. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1633</u> Application for compensation <i>Thirteenth Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/1/2020 to 11/30/2020, Fee: \$201,148.56, Expenses: \$408.64. Filed by Attorney Juliana Hoffman Objections due by 1/14/2021. filed by Financial Advisor FTI Consulting, Inc., <u>1634</u> Support/supplemental document ( <i>Exhibit A to the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund

	L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/30/2020	<u>1647</u> Certificate of service re: <i>1) Supplemental Declaration of Matthew Clemente in Support of Application of the Official Committee of Unsecured Creditors, Pursuant to Sections 328 and 1103 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2014, for an Order Approving the Retention and Employment of Sidley Austin LLP as Counsel to the Official Committee of Unsecured Creditors; and 2) Agreed Order Extending Deadline to Assume Unexpired Nonresidential Real Property Lease and Setting Motion to Assume for Hearing at Confirmation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1635</u> Declaration re: <i>Supplemental Declaration of Matthew Clemente</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>206</u> Amended Application to employ Sidley Austin LLP as Attorney <i>APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014, FOR AN ORDER APPROVING T).</i> filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1636</u> Agreed order granting <u>1623</u> Motion to extend deadline to assume unexpired nonresidential real property lease and setting motion to assume for hearing at confirmation. Entered on 12/28/2020. (Okafor, M.)). (Kass, Albert)
12/30/2020	<u>1648</u> Notice ( <i>Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
12/31/2020	<u>1649</u> Joint Motion to continue hearing on (related documents <u>1207</u> Motion to allow claims) Filed by Creditor HarbourVest et al (Attachments: # <u>1</u> Proposed Order) (Driver, Vickie)
12/31/2020	<u>1650</u> Witness and Exhibit List filed by Spec. Counsel Foley Gardere, Foley & Lardner LLP (RE: related document(s) <u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5) (O'Neil, Holland)
12/31/2020	<u>1651</u> Certificate of No Objection filed by Other Professional Hayward & Associates PLLC (RE: related document(s) <u>1531</u> Application for compensation ( <i>Tenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward &amp; Associates PLLC as Local Counsel to the Debtor for the Period from September 1, 2020 through September 30, 2020</i> ) for Hayward). (Annable, Zachery)
12/31/2020	<u>1652</u> Order granting motion to continue hearing on (related document # <u>1649</u> ) (related documents Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> ) Hearing to be held on 1/13/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , Entered on 12/31/2020. (Okafor, M.)
12/31/2020	<u>1653</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland

	<p>Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.), <a href="#">1630</a> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">1472</a> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">944</a> Chapter 11 plan, <a href="#">1079</a> Chapter 11 plan, <a href="#">1287</a> Chapter 11 plan, <a href="#">1383</a> Chapter 11 plan, <a href="#">1450</a> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <a href="#">1473</a> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">945</a> Disclosure statement, <a href="#">1080</a> Disclosure statement, <a href="#">1289</a> Disclosure statement, <a href="#">1384</a> Disclosure statement, <a href="#">1453</a> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <a href="#">1476</a> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s)<a href="#">1472</a> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <a href="#">1473</a> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
01/04/2021	<p><a href="#">1654</a> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">1521</a> Application for compensation <i>Fourteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor for the Period from November 1, 2020 through November 30, 2020</i> for J). (Pomerantz, Jeffrey)</p>
01/04/2021	<p><a href="#">1655</a> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47. Filed by Attorney Juliana Hoffman Objections due by 1/25/2021. (Hoffman, Juliana)</p>
01/04/2021	<p><a href="#">1656</a> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">1472</a> Chapter 11 plan). (Attachments: # <a href="#">1</a> Exhibit L—Amended Schedule of Retained Causes of Action # <a href="#">2</a> Exhibit M—Amended Form of Claimant Trust Agreement # <a href="#">3</a> Exhibit N—Redline of Form of Claimant Trust Agreement # <a href="#">4</a> Exhibit O—Amended Form of Litigation Trust Agreement # <a href="#">5</a> Exhibit P—Redline of Form of Litigation Trust Agreement) (Annable, Zachery)</p>
01/05/2021	<p><a href="#">1657</a> Notice of Appearance and Request for Notice by Daniel P. Winikka filed by Interested Parties Brad Borud, Jack Yang. (Winikka, Daniel)</p>
01/05/2021	<p><a href="#">1658</a> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: ACA Compliance Group (Amount \$26,324.25) To Argo Partners. Filed by Creditor Argo Partners. (Gold, Matthew)</p>
01/05/2021	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] ( 26.00). Receipt number 28389049, amount \$ 26.00 (re: Doc# <a href="#">1658</a>). (U.S. Treasury)</p>
01/05/2021	<p><a href="#">1659</a> Certificate of No Objection filed by Other Professional Hayward &amp; Associates PLLC (RE: related document(s)<a href="#">1545</a> Application for compensation (<i>Hayward &amp; Associates PLLC's Third Interim Application for Compensation and Reimbursement of Expenses for the Period from July 1, 2020 through September 30, 2020</i>) for Hayward &amp; Associates PLLC, Debtor's Att). (Annable, Zachery)</p>
01/05/2021	<p><a href="#">1660</a> Notice (<i>Notice of Agenda of Matters Scheduled for Hearing on January 6, 2021 at 2:30 p.m. (Central Time)</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>



01/05/2021	<u>1661</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Party James Dondero. (Clarke, James)
01/05/2021	<u>1662</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by City of Richardson, Allen ISD, City of Allen, Dallas County, Kaufman County. (Spindler, Laurie)
01/05/2021	<u>1663</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>1544</u> Application for compensation ( <i>First Interim Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2020 to 10/31/2020, Fee: \$206933.85, Expenses: \$546.52.). (Annable, Zachery)
01/05/2021	<u>1664</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1547</u> Application for compensation <i>Third Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from August 1, 2020 through November 30,</i> ). (Annable, Zachery)
01/05/2021	<u>1665</u> Certificate of No Objection filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (RE: related document(s) <u>1552</u> Application for compensation ( <i>Consolidated Monthly and Second Interim Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for</i> ). (Annable, Zachery)
01/05/2021	<u>1666</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Brad Borud, Jack Yang. (Winikka, Daniel)
01/05/2021	<u>1667</u> Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
01/05/2021	<u>1668</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor United States (IRS). (Adams, David)
01/05/2021	<u>1669</u> WITHDRAWN per # <u>1845</u> . Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Smith, Frances) MODIFIED on 1/27/2021 (Ecker, C.).
01/05/2021	<u>1670</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Attachments: # <u>1</u> Exhibit A) (Rukavina, Davor)
01/05/2021	<u>1671</u> Trustee's Objection to <i>Fifth Amended Plan</i> (RE: related document(s) <u>1472</u> Chapter 11 plan) (Lambert, Lisa)
01/05/2021	<u>1672</u> Certificate of service re: Senior Employees' Objection to Debtor's Fifth Amended Plan of Reorganization filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1669</u> Objection to confirmation of plan). (Smith, Frances)
01/05/2021	

	<u>1673</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
01/05/2021	<u>1674</u> Joinder by <i>Kauffman, Travers and Deadman to Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization</i> filed by Paul Kauffman, Todd Travers, Davis Deadman (RE: related document(s) <u>1472</u> Chapter 11 plan, <u>1666</u> Objection to confirmation of plan). (Kathman, Jason)
01/05/2021	<u>1675</u> Joinder by [ <i>Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. [Dkt. No. 1670] and Supplemental Objection to Plan Confirmation</i> ] filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Kane, John)
01/05/2021	<u>1676</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties NexBank Title Inc., NexBank Securities Inc., NexBank Capital Inc., NexBank. (Drawhorn, Lauren)
01/05/2021	<u>1677</u> Joinder by <i>NexPoint RE Entities to Objection to Confirmation of Fifth Amended Plan of Reorganization</i> filed by Interested Parties NexPoint Hospitality Trust, NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Finance Inc., NexPoint Real Estate Partners, LLC, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, Vinebrook Homes, Trust, Inc. (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Drawhorn, Lauren)
01/05/2021	<u>1678</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Patrick Daugherty. (Kathman, Jason)
01/05/2021	<u>1679</u> Joinder by <i>Kauffman, Travers and Deadman to Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization (Amended)</i> filed by Davis Deadman, Paul Kauffman, Todd Travers (RE: related document(s) <u>1472</u> Chapter 11 plan, <u>1666</u> Objection to confirmation of plan). (Kathman, Jason)
01/05/2021	<u>1680</u> Motion to appear pro hac vice for Debra Dandenau. Fee Amount \$100 Filed by Creditor Frank Waterhouse, Scott B. Ellington, Isaac Leventon, and Thomas Surgent (Soderlund, Eric) Modified to correct party filers on 12/7/2021 (Tello, Chris).
01/05/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28390902, amount \$ 100.00 (re: Doc# <u>1680</u> ). (U.S. Treasury)
01/06/2021	<u>1681</u> Motion to appear pro hac vice for Douglas S. Draper. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Draper, Douglas)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28393061, amount \$ 100.00 (re: Doc# <u>1681</u> ). (U.S. Treasury)
01/06/2021	<u>1682</u> Motion to appear pro hac vice for Leslie A. Collins. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Draper, Douglas)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28393082, amount \$ 100.00 (re: Doc# <u>1682</u> ). (U.S. Treasury)

01/06/2021	<u>1683</u> Motion to appear pro hac vice for Greta M. Brouphy. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Brouphy, Greta)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28393123, amount \$ 100.00 (re: Doc# <u>1683</u> ). (U.S. Treasury)
01/06/2021	<u>1684</u> Order granting third interim fee application for compensation (related document # <u>1296</u> ) granting for Official Committee of Unsecured Creditors, fees awarded: \$1865520.45, expenses awarded: \$18678.47 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1685</u> Order granting third interim application for compensation (related document # <u>1244</u> ) granting for FTI Consulting, Inc., fees awarded: \$886615.45, expenses awarded: \$1833.10 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1686</u> Order granting first interim application for compensation (related document # <u>1544</u> ) granting for Hunton Andrews Kurth LLP, fees awarded: \$206933.85, expenses awarded: \$546.52 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1687</u> Order granting third interim application for compensation (related document # <u>1547</u> ) granting for Jeffrey Nathan Pomerantz, fees awarded: \$3380111.5, expenses awarded: \$31940.33 Entered on 1/6/2021. (Okafor, M.)
01/06/2021	<u>1688</u> Second Agreed Order regarding deposit of funds into the registry of the court (RE: related document(s) <u>1365</u> Agreed Supplemental Order re: <u>474</u> Motion for authority to apply and disburse funds filed by Debtor Highland Capital Management, L.P., <u>1365</u> Order (generic)). Entered on 1/6/2021 (Okafor, M.)
01/06/2021	<u>1689</u> Motion to appear pro hac vice for Warren Horn. Fee Amount \$100 Filed by Get Good Trust, The Dugaboy Investment Trust (Horn, Warren)
01/06/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28393995, amount \$ 100.00 (re: Doc# <u>1689</u> ). (U.S. Treasury)
01/06/2021	<u>1690</u> Order granting motion to appear pro hac vice adding Debra A. Dandeneau for Frank Waterhouse, Scott B. Ellington, Isaac Leventon and Thomas Surgent (related document <u>1680</u> ) Entered on 1/6/2021. (Okafor, M.) Modified to correct parties on 12/7/2021 (Tello, Chris).
01/06/2021	<u>1691</u> Order granting third and final application for compensation (related document <u>1483</u> ) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$617654.60, expenses awarded: \$11433.73 Entered on 1/6/2021. (Okafor, M.) Modified to correct text on 1/29/2021 (Ecker, C.).
01/06/2021	<u>1692</u> Adversary case 21-03000. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, NexPoint Capital, Inc., CLO Holdco, Ltd.. Fee Amount \$350 (Attachments: # <u>1</u> Adversary Proceeding Cover Sheet). Nature(s) of suit: 91 (Declaratory judgment). 72 (Injunctive relief – other). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Annable, Zachery)
01/06/2021	<u>1693</u> Subpoena on Highland Capital Management, L.P. filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Subpoena with Document Requests) (Assink, Bryan)
01/06/2021	<u>1694</u> Subpoena on Kurtzman Carson Consultants LLC filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Subpoena with Document Requests) (Assink, Bryan)

01/06/2021	<p><u>1695</u> Certificate of service re: 1) <i>WebEx Meeting Invitation to participate electronically in the hearing on Wednesday, December 16, 2020 at 1:30 p.m. Central Time before the Honorable Stacey G. Jernigan</i>; 2) <i>Instructions for any counsel and parties who wish to participate in the Hearing</i>; and 3) <i>Foley &amp; Lardner LLP's Witness and Exhibit List for Final Fee Application</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1650</u> Witness and Exhibit List filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP (RE: related document(s)<u>1483</u> Application for compensation <i>Third and Final Application for Compensation and Reimbursement of Expenses of Foley &amp; Lardner LLP as Special Texas Counsel to the Debtor for the Period from October 16, 2019 through October 31, 2020</i> for Foley Ga). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5) (O'Neil, Holland) filed by Spec. Counsel Foley Gardere, Foley &amp; Lardner LLP). (Kass, Albert)</p>
01/06/2021	<p><u>1696</u> Certificate of service re: 1) <i>Fourth Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from September 1, 2020 Through and Including November 30, 2020</i>; and 2) <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47. Filed by Attorney Juliana Hoffman Objections due by 1/25/2021. filed by Financial Advisor FTI Consulting, Inc., <u>1656</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit L—Amended Schedule of Retained Causes of Action # 2 Exhibit M—Amended Form of Claimant Trust Agreement # 3 Exhibit N—Redline of Form of Claimant Trust Agreement # 4 Exhibit O—Amended Form of Litigation Trust Agreement # 5 Exhibit P—Redline of Form of Litigation Trust Agreement) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/06/2021	<p><u>1697</u> Objection to (related document(s): <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)</p>
01/07/2021	<p><u>1698</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>816</u> Order on motion to extend/shorten time)). (Annable, Zachery)</p>
01/07/2021	<p><u>1699</u> Certificate of service re: Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1648</u> Notice (generic)). (Annable, Zachery)</p>
01/07/2021	<p><u>1700</u> Certificate of service re: Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1648</u> Notice (generic)). (Annable, Zachery)</p>
01/07/2021	<p><u>1701</u> Order granting motion to appear pro hac vice adding Douglas S. Draper for Get Good Trust and The Dugaboy Investment Trust (related document <u>1681</u>) Entered on 1/7/2021. (Okafor, M.) Modified to add party on 1/7/2021 (Okafor, M.).</p>
01/07/2021	<p><u>1702</u> Order granting motion to appear pro hac vice adding Leslie A. Collins for Get Good Trust and The Dugaboy Investment Trust (related document # <u>1682</u>) Entered on 1/7/2021. (Okafor, M.)</p>



01/07/2021	<u>1703</u> Order granting motion to appear pro hac vice adding Greta M. Brouphy for Get Good Trust and The Dugaboy Investment Trust (related document # <u>1683</u> ) Entered on 1/7/2021. (Okafor, M.)
01/07/2021	<u>1704</u> Order granting motion to appear pro hac vice adding Warren Horn for Get Good Trust and The Dugaboy Investment Trust (related document # <u>1689</u> ) Entered on 1/7/2021. (Okafor, M.)
01/07/2021	<u>1705</u> Notice to take deposition of Michael Pugatch filed by Interested Party James Dondero. (Assink, Bryan)
01/08/2021	<u>1706</u> Objection to (related document(s): <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) <i>Objection to Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
01/08/2021	<u>1707</u> Objection to (related document(s): <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. filed by Debtor Highland Capital Management, L.P.) filed by Creditor CLO Holdco, Ltd.. (Kane, John)
01/08/2021	<b>1708 SEALED document regarding: Exhibit A to CLO Holdco, Ltd.'s Objection to Harbourvest Settlement [Docket No. 1707] Members Agreement Relating to the Company dated November 15, 2017 by and between each of the members of HCLOF, including Harbourvest, the Debtor, and CLO Holdco – Confidential [Confidential Subject to Agreed Protective Order See Docket No. 382] per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/08/2021	<u>1709</u> Notice ( <i>Notice of Filing of Certificate of Service Regarding Letter Dated January 7, 2021 to Highland Capital Management Services, Inc. from James P. Seery, Jr. Regarding Demand on Promissory Note</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/08/2021	<u>1710</u> Debtor-in-possession monthly operating report for filing period November 1, 2020 to November 30, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/08/2021	<u>1711</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to November 30, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
01/08/2021	<u>1712</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on January 6, 2021 at 2:30 p.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1660</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on January 6, 2021 at 2:30 p.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass,

	Albert)
01/08/2021	<u>1713</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1690</u> Order granting motion to appear pro hac vice adding Debra A. Dandeneau for FTI Consulting, Inc. and Frank Waterhouse, Scott B. Ellington, Isaac Leventon, Jean Paul Sevilla, Hunter Covitz and Thomas Surgent (related document <u>1680</u> ) Entered on 1/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 01/08/2021. (Admin.)
01/09/2021	<u>1714</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u> , (Annable, Zachery)
01/11/2021	<u>1715</u> Order granting application for compensation (related document # <u>1552</u> ) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$709256.22, expenses awarded: \$0.0 Entered on 1/11/2021. (Ecker, C.)
01/11/2021	<u>1716</u> Witness and Exhibit List filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). (Kane, John)
01/11/2021	<b>1717 SEALED document regarding: Exhibit 4, Members Agreement Relating to the Company dated November 15, 2017 by and between each of the members of HCLOF, including Harbourvest, the Debtor, and CLO Holdco [Confidential Subject to Agreed Protective Order] per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/11/2021	<u>1718</u> Amended Notice of hearing ( <i>Amended Notice of (I) Hearing to Confirm Plan and (II) Related Important Dates</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan).). Confirmation hearing to be held on 1/26/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Annable, Zachery)
01/11/2021	<u>1719</u> Notice ( <i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
01/11/2021	<u>1720</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u> , (Annable, Zachery)
01/11/2021	<u>1721</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund

	L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Attachments: # <u>1</u> Dondero Ex. A – POCs # <u>2</u> Dondero Ex. B # <u>3</u> Dondero Ex. C # <u>4</u> Dondero Ex. D # <u>5</u> Dondero Ex. E # <u>6</u> Dondero Ex. F # <u>7</u> Dondero Ex. G # <u>8</u> Ex. H – M) (Assink, Bryan)
01/11/2021	<u>1722</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Annable, Zachery)
01/11/2021	<u>1723</u> Witness and Exhibit List filed by Creditor HarbourVest et al (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Driver, Vickie)
01/11/2021	<u>1724</u> Certificate of service re: <i>Documents Served on January 6, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1684</u> Order granting third interim fee application for compensation (related document <u>1296</u> ) granting for Official Committee of Unsecured Creditors, fees awarded: \$1865520.45, expenses awarded: \$18678.47 Entered on 1/6/2021. (Okafor, M.), <u>1685</u> Order granting third interim application for compensation (related document <u>1244</u> ) granting for FTI Consulting, Inc., fees awarded: \$886615.45, expenses awarded: \$1833.10 Entered on 1/6/2021. (Okafor, M.), <u>1686</u> Order granting first interim application for compensation (related document <u>1544</u> ) granting for Hunton Andrews Kurth LLP, fees awarded: \$206933.85, expenses awarded: \$546.52 Entered on 1/6/2021. (Okafor, M.), <u>1687</u> Order granting third interim application for compensation (related document <u>1547</u> ) granting for Jeffrey Nathan Pomerantz, fees awarded: \$3380111.5, expenses awarded: \$31940.33 Entered on 1/6/2021. (Okafor, M.), <u>1688</u> Second Agreed Order regarding deposit of funds into the registry of the court (RE: related document(s) <u>1365</u> Agreed Supplemental Order re: <u>474</u> Motion for authority to apply and disburse funds filed by Debtor Highland Capital Management, L.P., <u>1365</u> Order (generic)). Entered on 1/6/2021 (Okafor, M.), <u>1691</u> Order granting first and final application for compensation (related document <u>1483</u> ) granting for Foley Gardere, Foley & Lardner LLP, fees awarded: \$617654.60, expenses awarded: \$11433.73 Entered on 1/6/2021. (Okafor, M.)). (Kass, Albert)
01/12/2021	<u>1725</u> Order further extending period within which the Debtor may remove actions <u>1583</u> Motion to extend time. (Re: related document(s) <u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>816</u> Order on motion to extend/shorten time)) Entered on 1/12/2021. (Ecker, C.)
01/12/2021	<u>1726</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1722</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit T # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> Exhibit W # <u>24</u> Exhibit X # <u>25</u> Exhibit DD) (Annable, Zachery)
01/13/2021	<u>1727</u> Certificate of service re: Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to November 30, 2020 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1711</u> Notice (generic)). (Annable, Zachery)
01/13/2021	<u>1728</u> Order granting application for compensation (related document # <u>1545</u> ) granting for Hayward & Associates PLLC, fees awarded: \$82325.00, expenses awarded: \$1972.63 Entered on 1/13/2021. (Ecker, C.)

01/13/2021	<u>1729</u> Certificate of service re: Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the Fifth Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of the Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form and Manner of Notice filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1476</u> Order approving disclosure statement). (Annable, Zachery)
01/13/2021	<u>1730</u> Certificate of service re: Order Further Extending Period Within Which the Debtor May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time). (Annable, Zachery)
01/13/2021	<u>1731</u> Omnibus Reply to (related document(s): <u>1697</u> Objection filed by Interested Party James Dondero, <u>1706</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1707</u> Objection filed by Creditor CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/13/2021	<u>1732</u> Amended Witness and Exhibit List ( <i>Debtor's Second Amended Witness and Exhibit List with Respect to Hearing to Be Held on January 14, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1722</u> List (witness/exhibit/generic), <u>1726</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit EE) (Annable, Zachery)
01/13/2021	<u>1733</u> Expedited Motion to file document under seal./ <i>Expedited Motion for Leave to File Documents Under Seal in Connection with the HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith</i> Filed by Creditor HarbourVest et al (Attachments: # <u>1</u> Exhibit A – Proposed Order) (Driver, Vickie)
01/13/2021	<u>1734</u> Omnibus Reply to (related document(s): <u>1697</u> Objection filed by Interested Party James Dondero, <u>1706</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1707</u> Objection filed by Creditor CLO Holdco, Ltd.) / <i>HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith</i> filed by Creditor HarbourVest et al. (Driver, Vickie)
01/13/2021	<u>1735</u> Support/supplemental document / <i>Appendix to HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith</i> filed by Creditor HarbourVest et al (RE: related document(s) <u>1734</u> Reply). (Driver, Vickie)
01/13/2021	<u>1736</u> Emergency Motion to file document under seal./( <i>Debtor's Emergency Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to Debtor's Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154), and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
01/14/2021	<u>1737</u> Order granting motion to seal exhibits (related document # <u>1736</u> ) Entered on 1/14/2021. (Ecker, C.)
01/14/2021	<b>1738 SEALED document regarding: Exhibit A—Members Agreement per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal). (Annable, Zachery)
01/14/2021	<b>1739 SEALED document regarding: Exhibit B—Articles of Incorporation per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal). (Annable, Zachery)



01/14/2021	1740 <b>SEALED document regarding: Exhibit C—Offering Memorandum per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1737</u> Order on motion to seal). (Annable, Zachery)
01/14/2021	<u>1741</u> Notice ( <i>Notice of Stipulation Resolving Proof of Claim No. 166 Filed by Stinson Leonard Street LLP</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/14/2021	<u>1742</u> Exhibit List ( <i>Supplemental Exhibit List</i> ) filed by Interested Party James Dondero (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.). (Attachments: # <u>1</u> Dondero Ex. N) (Assink, Bryan)
01/14/2021	<u>1743</u> Declaration re: <i>Supplemental Declaration of Conor P. Tully In Support of the Application Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>336</u> Order on application to employ). (Hoffman, Juliana)
01/14/2021	<u>1744</u> Declaration re: ( <i>Supplemental Declaration of Marc D. Katz</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>268</u> Declaration). (Annable, Zachery)
01/14/2021	<u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # <u>1</u> Proposed Order) (Draper, Douglas)
01/14/2021	<u>1752</u> INCORRECT Entry: Original entry at # [1745 is correct} Motion to Appoint Examiner pursuant to 11 U.S.C. § 1104(c) by Get Good Trust , The Dugaboy Investment Trust . (Ecker, C.) Modified on 1/15/2021 (Ecker, C.). (Entered: 01/15/2021)
01/14/2021	1753 Hearing held on 1/14/2021. (RE: related document(s) <u>1590</u> Motion to pay Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan) filed by Debtor Highland Capital Management, L.P. (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Nonevidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 01/15/2021)
01/14/2021	1754 Hearing held on 1/14/2021. (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 01/15/2021)
01/14/2021	1755 Hearing held on 1/14/2021. (RE: related document(s) <u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan filed by Creditor HarbourVest et al (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion resolved by approval of compromise and settlement. Counsel to upload order.) (Edmond, Michael)

	(Entered: 01/15/2021)
01/14/2021	<u>1782</u> Court admitted exhibits date of hearing January 14, 2021 (RE: related document(s) <u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P., filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S/PLAINTIFF EXHIBIT'S #A THROUGH #EE BY JAMES MORRIS AND EXHIBIT'S #34 & #36 BY ERICA WEISGERBER AND DEFENDANT'S DONDERO EXHIBIT #N (ONLY PORTIONS OF EXHIBIT) BY J. WILSON) (Edmond, Michael) (Entered: 01/20/2021)
01/15/2021	<u>1746</u> Order granting motion to pay (related document # <u>1590</u> ) Entered on 1/15/2021. (Ecker, C.)
01/15/2021	<u>1747</u> Order (RE: related document(s) <u>1741</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 1/15/2021 (Ecker, C.)
01/15/2021	<u>1748</u> Motion for expedited hearing(related documents <u>1745</u> Motion to appoint trustee) Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # <u>1</u> Proposed Order) (Draper, Douglas)
01/15/2021	<u>1749</u> Notice ( <i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit I—Schedule of Contracts and Leases to Be Assumed # <u>2</u> Exhibit J—Amended Form of Senior Employee Stipulation # <u>3</u> Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
01/15/2021	<u>1750</u> Request for transcript regarding a hearing held on 1/14/2021. The requested turn-around time is hourly (Green, Shanette)
01/15/2021	<u>1751</u> Supplemental Certificate of service re: filed by Creditors The Dugaboy Investment Trust, Get Good Trust (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> , <u>1748</u> Motion for expedited hearing(related documents <u>1745</u> Motion to appoint trustee) ). (Draper, Douglas) Modified on 1/15/2021 (Rielly, Bill).
01/15/2021	<u>1756</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> ). (Assink, Bryan)
01/15/2021	<u>1757</u> Notice of Increase in Hourly Rates for Pachulski Stang Ziehl & Jones LLP Effective as of January 1, 2021 filed by Debtor Highland Capital Management, L.P.. (Pomerantz, Jeffrey)
01/15/2021	<u>1758</u> Certificate No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1632</u> Application for compensation <i>Sidley Austin LLP's Thirteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 11/1/2020 to 11/30/2020, Fee: &#0). (Hoffman, Juliana)
01/15/2021	<u>1759</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1633</u> Application for compensation <i>Thirteenth Application for</i>

	<p><i>Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/1/2020 to 11/30/2020, Fee: \$201,148.56, Expenses: \$408.64.). (Hoffman, Juliana)</p>
01/15/2021	<p><u>1760</u> Certificate of service re: <i>(Supplemental) Solicitation Materials Served on January 11, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving disclosure statement and setting hearing on confirmation of plan (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
01/15/2021	<p><u>1761</u> Certificate of service re: <i>Documents Served on or Before January 12, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1714</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1625</u>, filed by Debtor Highland Capital Management, L.P., <u>1715</u> Order granting application for compensation (related document <u>1552</u>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$709256.22, expenses awarded: \$0.0 Entered on 1/11/2021. (Ecker, C.), <u>1718</u> Amended Notice of hearing (<i>Amended Notice of (I) Hearing to Confirm Plan and (II) Related Important Dates</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan).). Confirmation hearing to be held on 1/26/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. filed by Debtor Highland Capital Management, L.P., <u>1719</u> Notice (<i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P., <u>1720</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1207</u> Motion to allow claims of <i>HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan</i> Filed by Creditor HarbourVest et al Objections due by 11/9/2020. (Attachments: # 1 Proposed Order)). Hearing to be held on 1/14/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1207</u>, filed by Debtor Highland Capital Management, L.P., <u>1722</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P..). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>

01/15/2021	<p><u>1762</u> Certificate of service re: <i>Documents Served on January 12, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1725</u> Order further extending period within which the Debtor may remove actions <u>1583</u> Motion to extend time. (Re: related document(s) <u>1583</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>816</u> Order on motion to extend/shorten time)) Entered on 1/12/2021. (Ecker, C.), <u>1726</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1722</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Exhibit J # 11 Exhibit K # 12 Exhibit L # 13 Exhibit M # 14 Exhibit N # 15 Exhibit O # 16 Exhibit P # 17 Exhibit Q # 18 Exhibit R # 19 Exhibit S # 20 Exhibit T # 21 Exhibit U # 22 Exhibit V # 23 Exhibit W # 24 Exhibit X # 25 Exhibit DD) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/15/2021	<p><u>1763</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1728</u> Order granting application for compensation (related document <u>1545</u>) granting for Hayward &amp; Associates PLLC, fees awarded: \$82325.00, expenses awarded: \$1972.63 Entered on 1/13/2021. (Ecker, C.)) No. of Notices: 1. Notice Date 01/15/2021. (Admin.)</p>
01/16/2021	<p><u>1764</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
01/17/2021	<p><u>1765</u> Transcript regarding Hearing Held 01/14/2021 (173 pages) RE: Motion to Prepay Loan; Motion to Compromise Controversy; Motion to Allow Claims. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 04/19/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1753 Hearing held on 1/14/2021. (RE: related document(s)<u>1590</u> Motion to pay Debtor's Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay Loan) filed by Debtor Highland Capital Management, L.P. (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Nonevidentiary hearing. Motion granted. Counsel to upload order.), 1754 Hearing held on 1/14/2021. (RE: related document(s)<u>1625</u> Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P., filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion granted. Counsel to upload order.), 1755 Hearing held on 1/14/2021. (RE: related document(s)<u>1207</u> Motion to allow claims of HarbourVest Pursuant to Rule 3018(A) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan filed by Creditor HarbourVest et al (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; J. Wilson, M. Lynn, J. Bonds, and B. Assink for J. Dondero; E. Weisgerber for HarbourVest; J. Kane for CLO Holdco; D. Draper for Dugaboy and Get Good Trust; M. Clemente for UCC; R. Matsumura for HCLOF. Evidentiary hearing. Motion resolved by approval of compromise and settlement. Counsel to upload order.)). Transcript to be made available to the public on 04/19/2021. (Rehling, Kathy)</p>
01/17/2021	<p><u>1766</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>1747</u> Order (RE: related document(s)<u>1741</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 1/15/2021 (Ecker, C.)) No. of Notices: 1. Notice Date 01/17/2021. (Admin.)</p>



01/18/2021	<u>1767</u> Verified statement pursuant to Rule 2019 filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Smith, Frances)
01/18/2021	<u>1768</u> Certificate of service re: Verified Statement Pursuant to Federal Rule of Bankruptcy Procedure 2019 of (I) Frances A. Smith and Disclosures of Ross & Smith, PC; and (II) Michelle Hartmann and Disclosures of Baker & McKenzie LLP filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1767</u> Verified statement pursuant to Rule 2019). (Smith, Frances)
01/18/2021	<u>1769</u> Declaration re: ( <i>Report of Mediators</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>912</u> Order (generic)). (Annable, Zachery)
01/19/2021	<u>1770</u> Order Granting Expedited Motion for Leave to File Documents Under Seal in Connection with the HarbourVest Reply in Support of Debtors Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith (related document # <u>1733</u> ) Entered on 1/19/2021. (Okafor, M.)
01/19/2021	<u>1771</u> Application for compensation <i>Fifteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2020 through December 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$1,046,024.00, Expenses: \$4,130.90. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 2/9/2021. (Pomerantz, Jeffrey)
01/19/2021	<u>1772</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/19/2021	<u>1773</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/19/2021	<u>1774</u> Notice to take deposition of Highland Capital Management, L.P. filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Hogewood, A.)
01/19/2021	<u>1775</u> Certificate of service re: 1) <i>Order Granting Debtors Motion Pursuant to the Protocols for Authority for Highland Multi Strategy Credit Fund, L.P. to Prepay</i> ; 2) <i>Order Approving Stipulation Resolving Proof of Claim No. 166 Filed by Stinson Leonard Street LLP</i> ; and 3) <i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1746</u> Order granting motion to pay (related document <u>1590</u> ) Entered on 1/15/2021. (Ecker, C.), <u>1747</u> Order (RE: related document(s) <u>1741</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 1/15/2021 (Ecker, C.), <u>1749</u> Notice ( <i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

01/19/2021	<u>1776</u> Notice to take deposition of Highland Capital Management LP filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
01/19/2021	<u>1777</u> Motion for leave ( <i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B-1 # <u>3</u> Exhibit B-2 # <u>4</u> Exhibit C) (Annable, Zachery)
01/19/2021	<u>1778</u> Motion for expedited hearing(related documents <u>1777</u> Motion for leave) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
01/19/2021	<u>1779</u> Certificate of service re: <i>Documents Served on January 13, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1728</u> Order granting application for compensation (related document <u>1545</u> ) granting for Hayward & Associates PLLC, fees awarded: \$82325.00, expenses awarded: \$1972.63 Entered on 1/13/2021. (Ecker, C.), <u>1731</u> Omnibus Reply to (related document(s): <u>1697</u> Objection filed by Interested Party James Dondero, <u>1706</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1707</u> Objection filed by Creditor CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1732</u> Amended Witness and Exhibit List ( <i>Debtor's Second Amended Witness and Exhibit List with Respect to Hearing to Be Held on January 14, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1722</u> List (witness/exhibit/generic), <u>1726</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit EE) filed by Debtor Highland Capital Management, L.P., <u>1736</u> Emergency Motion to file document under seal.( <i>Debtor's Emergency Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to Debtor's Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154), and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/20/2021	<u>1780</u> Notice of District Court Order Accepting Documents Designated for Inclusion in Record on Appeal Under Seal filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
01/20/2021	<u>1781</u> Certificate of service re: Notice of Rule 30(b)(6) <i>Amended Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1776</u> Notice to take deposition). (Draper, Douglas)
01/20/2021	<u>1783</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1777</u> Motion for leave ( <i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B-1 # 3 Exhibit B-2 # 4 Exhibit C)). Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , (Annable, Zachery)
01/20/2021	<u>1784</u> WITHDRAWN PER # <u>1876</u> . Objection to (related document(s): <u>1719</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan) Modified on 2/2/2021 (Ecker, C.).
01/20/2021	<u>1785</u> Order granting motion for expedited hearing (Related Doc# <u>1778</u> )(document set for hearing: <u>1777</u> Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief)) Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , Entered on 1/20/2021. (Rielly, Bill)
01/20/2021	<u>1786</u> Certificate of service re: <i>Documents Served on January 14, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1737</u> Order granting motion to seal exhibits (related document <u>1736</u> ) Entered on 1/14/2021. (Ecker, C.), <u>1741</u> Notice

	<p>(<i>Notice of Stipulation Resolving Proof of Claim No. 166 Filed by Stinson Leonard Street LLP</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1743</u> Declaration re: <i>Supplemental Declaration of Conor P. Tully In Support of the Application Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor to the Official Committee of Unsecured Creditors</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s)<u>336</u> Order on application to employ). filed by Financial Advisor FTI Consulting, Inc., <u>1744</u> Declaration re: (<i>Supplemental Declaration of Marc D. Katz</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>268</u> Declaration). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/20/2021	<p><u>1787</u> Certificate of service re: <i>Documents Served on or Before January 19, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1764</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1769</u> Declaration re: (<i>Report of Mediators</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>912</u> Order (generic)). filed by Debtor Highland Capital Management, L.P., <u>1771</u> Application for compensation <i>Fifteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2020 through December 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$1,046,024.00, Expenses: \$4,130.90. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 2/9/2021. filed by Debtor Highland Capital Management, L.P., <u>1772</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1773</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1777</u> Motion for leave (<i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B-1 # 3 Exhibit B-2 # 4 Exhibit C) filed by Debtor Highland Capital Management, L.P., <u>1778</u> Motion for expedited hearing(related documents <u>1777</u> Motion for leave) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
01/21/2021	<p><u>1788</u> Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # <u>1625</u>) Entered on 1/21/2021. (Okafor, M.)</p>
01/21/2021	<p><u>1789</u> Notice (<i>Notice of Service of Discovery on Highland Capital Management, L.P.</i>) filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. A – Document Requests) (Assink, Bryan)</p>
01/21/2021	<p><u>1790</u> Subpoena on Jean Paul Sevilla filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. 1 – Subpoena) (Assink, Bryan)</p>
01/21/2021	<p><u>1791</u> Notice (<i>Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1648</u> Notice (<i>Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)), <u>1719</u> Notice (<i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document</p>

	<p>(Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)), <u>1749</u> Notice (Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document (Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)</p>
01/22/2021	<p><u>1792</u> Witness and Exhibit List <i>United States' (IRS) Witness &amp; Exhibit List</i> filed by Creditor United States (IRS) (RE: related document(s)<u>1668</u> Objection to confirmation of plan). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6) (Adams, David)</p>
01/22/2021	<p><u>1793</u> Witness and Exhibit List <i>for Confirmation Hearing</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s)<u>1670</u> Objection to confirmation of plan). (Hogewood, A.)</p>
01/22/2021	<p><u>1794</u> Witness and Exhibit List <i>with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit 5 # <u>2</u> Exhibit 6 # <u>3</u> Exhibit 6-1) (Draper, Douglas)</p>
01/22/2021	<p><u>1795</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Dondero Ex. 1 # <u>2</u> Dondero Ex. 2 # <u>3</u> Dondero Ex. 3 # <u>4</u> Dondero Ex. 4 # <u>5</u> Dondero Ex. 5 # <u>6</u> Dondero Ex. 6 # <u>7</u> Dondero Ex. 7 # <u>8</u> Dondero Ex. 8 # <u>9</u> Dondero Ex. 9 # <u>10</u> Dondero Ex. 10 # <u>11</u> Dondero Ex. 11 # <u>12</u> Dondero Ex. 12 # <u>13</u> Dondero Ex. 13 # <u>14</u> Dondero Ex. 14 # <u>15</u> Dondero Ex. 15 # <u>16</u> Dondero Ex. 16 # <u>17</u> Dondero Ex. 17) (Assink, Bryan)</p>
01/22/2021	<p><u>1796</u> Witness and Exhibit List <i>for Hearing Scheduled for January 26, 2021 at 9:30 a.m.</i> filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit SE1 # <u>2</u> Exhibit SE2 # <u>3</u> Exhibit SE # <u>4</u> Exhibit SE4 # <u>5</u> Exhibit SE5 # <u>6</u> Exhibit SE6 # <u>7</u> Exhibit SE7 # <u>8</u> Exhibit SE8 # <u>9</u> Exhibit SE9 # <u>10</u> Exhibit SE10 # <u>11</u> Exhibit SE11 # <u>12</u> Exhibit SE12 # <u>13</u> Exhibit SE13 # <u>14</u> Exhibit SE14 # <u>15</u> Exhibit SE15 # <u>16</u> Exhibit SE16 # <u>17</u> Exhibit SE17 # <u>18</u> Exhibit SE18 # <u>19</u> Exhibit SE19 # <u>20</u> Exhibit SE20 # <u>21</u> Exhibit SE21 # <u>22</u> Exhibit SE22 # <u>23</u> Exhibit SE23 # <u>24</u> Exhibit SE24 # <u>25</u> Exhibit SE25 # <u>26</u> Exhibit SE26 # <u>27</u> Exhibit SE27 # <u>28</u> Exhibit SE28 # <u>29</u> Exhibit SE29 # <u>30</u> Exhibit SE30 # <u>31</u> Exhibit SE31 # <u>32</u> Exhibit SE33 # <u>33</u> Exhibit SE34 # <u>34</u> Exhibit SE35 # <u>35</u> Exhibit SE36 # <u>36</u> Exhibit SE37 # <u>37</u> Exhibit SE38 # <u>38</u> Exhibit SE39 # <u>39</u> Exhibit SE40) (Smith, Frances)</p>
01/22/2021	<p><u>1797</u> Witness and Exhibit List filed by Creditor CLO Holdco, Ltd. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Kane, John)</p>
01/22/2021	<p><u>1798</u> Certificate of service re: Witness &amp; Exhibit List for Hearing Scheduled for January, 26, 2021 at 9:30 a.m. filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s)<u>1796</u> List (witness/exhibit/generic)). (Smith,</p>



	Frances)
01/22/2021	<u>1799</u> Witness and Exhibit List for Hearing Scheduled for January 26, 2021 at 9:30 a.m. filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit SE33) (Smith, Frances)
01/22/2021	<u>1800</u> Exhibit and Witness List for Confirmation Hearing filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1670</u> Objection to confirmation of plan). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit U # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> Exhibit W # <u>24</u> Exhibit X # <u>25</u> Exhibit Y # <u>26</u> Exhibit Z # <u>27</u> Exhibit AA # <u>28</u> Exhibit BB # <u>29</u> Exhibit CC # <u>30</u> Exhibit DD # <u>31</u> Exhibit EE # <u>32</u> Exhibit FF # <u>33</u> Exhibit GG # <u>34</u> Exhibit HH # <u>35</u> Exhibit II # <u>36</u> Exhibit JJ # <u>37</u> Exhibit KK # <u>38</u> Exhibit LL # <u>39</u> Exhibit MM # <u>40</u> Exhibit NN # <u>41</u> Exhibit OO # <u>42</u> Exhibit PP # <u>43</u> Exhibit QQ # <u>44</u> Exhibit RR # <u>45</u> Exhibit SS # <u>46</u> Exhibit TT # <u>47</u> Exhibit UU # <u>48</u> Exhibit VV # <u>49</u> Exhibit WW # <u>50</u> Exhibit XX # <u>51</u> Exhibit YY # <u>52</u> Exhibit ZZ # <u>53</u> Exhibit AAA # <u>54</u> Exhibit BBB # <u>55</u> Exhibit CCC # <u>56</u> Exhibit DDD # <u>57</u> Exhibit EEE # <u>58</u> Exhibit FFF # <u>59</u> Exhibit GGG # <u>60</u> Exhibit HHH # <u>61</u> Exhibit III # <u>62</u> Exhibit JJJ # <u>63</u> Exhibit KKK # <u>64</u> Exhibit LLL # <u>65</u> Exhibit MMM # <u>66</u> Exhibit NNN # <u>67</u> Exhibit OOO # <u>68</u> Exhibit PPP # <u>69</u> Exhibit QQQ # <u>70</u> Exhibit RRR # <u>71</u> Exhibit SSS # <u>72</u> Exhibit TTT # <u>73</u> Exhibit UUU # <u>74</u> Exhibit VVV # <u>75</u> Exhibit WWW # <u>76</u> Exhibit ZZZ) (Hogewood, A.) MODIFIED on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1801</u> Adversary case 21-03003. Complaint by Highland Capital Management, L.P. against James Dondero. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property - 542 turnover of property). 13-Recovery of money/property - \$548 fraudulent transfer; 14-Recovery of money/property - other; 91-Declaratory judgment (Annable, Zachery) Modified text to update Natures of Suit on 8/30/2021 (Ecker, C.).
01/22/2021	<u>1802</u> Adversary case 21-03004. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property - 542 turnover of property). (Annable, Zachery)
01/22/2021	<u>1803</u> Adversary case 21-03005. Complaint by Highland Capital Management, L.P. against NexPoint Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property - 542 turnover of property). 03 13-Recovery of money/property - \$548 fraudulent transfer. 04 14-Recovery of money/property - other. 05 91-Declaratory judgment. (Annable, Zachery) MODIFIED to add natures of suit on 8/30/2021 (Ecker, C.).
01/22/2021	<u>1804</u> Adversary case 21-03006. Complaint by Highland Capital Management, L.P. against Highland Capital Management Services, Inc.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property - 542 turnover of property). 03 13-Recovery of money/property - \$548 fraudulent transfer .

	04 14–Recovery of money/property – other. 05 91–Declaratory judgment. (Annable, Zachery) MODIFIED to add Natures of Suit on 8/30/2021 (Ecker, C.).
01/22/2021	<u>1805</u> Adversary case 21–03007. Complaint by Highland Capital Management, L.P. against HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). 0313–Recovery of money/property – \$548 fraudulent transfer. 04 14–Recovery of money/property – other . 0591–Declaratory judgment. (Annable, Zachery) MODIFIED to add Natures of Suit on 8/30/2021 (Ecker, C.).
01/22/2021	<u>1806</u> Motion to file document under seal. Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small–Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund (Attachments: # <u>1</u> Proposed Order) (Vasek, Julian)
01/22/2021	<u>1807</u> INCORRECT EVENT: Attorney to refile. Notice ( <i>Debtor's Omnibus Reply to Objections to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management L.P. (with Technical Modifications)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1661</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Party James Dondero., <u>1662</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by City of Richardson, Allen ISD, City of Allen, Dallas County, Kaufman County., <u>1666</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Brad Borud, Jack Yang., <u>1667</u> Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust., <u>1668</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor United States (IRS)., <u>1669</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B), <u>1670</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small–Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Attachments: # <u>1</u> Exhibit A), <u>1673</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC., <u>1676</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties NexBank Title Inc., NexBank Securities Inc., NexBank Capital Inc., NexBank., <u>1678</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Patrick Daugherty.). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery) MODIFIED on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
01/22/2021	<u>1809</u> Support/supplemental document ( <i>Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Annable, Zachery)
01/22/2021	

	<u>1810</u> Witness and Exhibit List [Exhibits 1–2 and 12–17] filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>1797</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> CLO Exhibit 2 # <u>2</u> CLO Exhibit 12 # <u>3</u> CLO Exhibit 13 # <u>4</u> CLO Exhibit 14 # <u>5</u> CLO Exhibit 15 # <u>6</u> CLO Exhibit 16 # <u>7</u> CLO Exhibit 17) (Kane, John) MODIFIED on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1811</u> NOTICE (Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit Q # <u>2</u> Exhibit R # <u>3</u> Exhibit S # <u>4</u> Exhibit T # <u>5</u> Exhibit U # <u>6</u> Exhibit V # <u>7</u> Exhibit W # <u>8</u> Exhibit X # <u>9</u> Exhibit Y # <u>10</u> Exhibit Z # <u>11</u> Exhibit AA # <u>12</u> Exhibit BB # <u>13</u> Exhibit CC # <u>14</u> Exhibit DD) (Annable, Zachery) Modified text on 1/25/2021 (Ecker, C.).
01/22/2021	<b>1812 SEALED document regarding: CLO Exhibit 3 – Aberdeen Loan Funding, Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1813 SEALED document regarding: CLO Exhibit 4 – Brentwood CLO Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<u>1814</u> Memorandum of Law in support of confirmation filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Annable, Zachery) Modified on 1/25/2021 (Ecker, C.).
01/22/2021	<b>1815 SEALED document regarding: CLO Exhibit 5 – Grayson CLO Ltd. Servicing Agreement and Amendment to Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1816 SEALED document regarding: CLO Exhibit 6 – Liberty CLO, Ltd. Portfolio Management Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1817 SEALED document regarding: CLO Exhibit 7 – Red River CLO Ltd. Servicing Agreement and Amendment to Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1818 SEALED document regarding: CLO Exhibit 8 – Rockwall CDO Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1819 SEALED document regarding: CLO Exhibit 9 – Valhalla CLO, Ltd. Reference Portfolio Management Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1820 SEALED document regarding: CLO Exhibit 10 – Westchester CLO, Ltd. Servicing Agreement [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order</b> filed by Creditor CLO Holdco, Ltd. (RE: related

	document(s) <u>382</u> Order on motion for protective order). (Kane, John)
01/22/2021	<b>1821 SEALED document regarding: CLO Exhibit 11 – Debtor Prepared Summary of CLO Holdco, Ltd.'s Interest in Debtor–Managed CLO Funds [CONFIDENTIAL] in connection to CLO's Witness and Exhibit List at Docket No. 1797 per court order filed by Creditor CLO Holdco, Ltd. (RE: related document(s)<u>382</u> Order on motion for protective order). (Kane, John)</b>
01/22/2021	<u>1822</u> (REDACTED EXHIBITS ADDED 01/27/2021); Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> List of 20 Largest Creditors C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u> Exhibit M # <u>14</u> Exhibit N # <u>15</u> Exhibit O # <u>16</u> Exhibit P # <u>17</u> Exhibit Q # <u>18</u> Exhibit R # <u>19</u> Exhibit S # <u>20</u> Exhibit T # <u>21</u> Exhibit U # <u>22</u> Exhibit V # <u>23</u> List of 20 Largest Creditors W # <u>24</u> Exhibit X # <u>25</u> Exhibit Y # <u>26</u> Exhibit Z # <u>27</u> Exhibit AA # <u>28</u> Exhibit BB # <u>29</u> Exhibit CC # <u>30</u> Exhibit DD # <u>31</u> Exhibit EE # <u>32</u> Exhibit FF # <u>33</u> Exhibit GG # <u>34</u> Exhibit HH # <u>35</u> Exhibit II # <u>36</u> Exhibit JJ # <u>37</u> Exhibit KK # <u>38</u> Exhibit LL # <u>39</u> Exhibit MM # <u>40</u> Exhibit NN # <u>41</u> Exhibit OO # <u>42</u> Exhibit PP # <u>43</u> Exhibit QQ # <u>44</u> Exhibit RR # <u>45</u> Exhibit SS # <u>46</u> Exhibit TT # <u>47</u> Exhibit UU # <u>48</u> Exhibit VV # <u>49</u> Exhibit WW # <u>50</u> Exhibit XX # <u>51</u> Exhibit YY # <u>52</u> Exhibit ZZ # <u>53</u> Exhibit AAA # <u>54</u> Exhibit BBB # <u>55</u> Exhibit CCC # <u>56</u> Exhibit DDD # <u>57</u> Exhibit EEE # <u>58</u> Exhibit FFF # <u>59</u> Exhibit GGG # <u>60</u> Exhibit HHH # <u>61</u> Exhibit III # <u>62</u> Exhibit JJJ # <u>63</u> Exhibit KKK # <u>64</u> Exhibit LLL # <u>65</u> Exhibit MMM # <u>66</u> Exhibit NNN # <u>67</u> Exhibit OOO # <u>68</u> Exhibit PPP # <u>69</u> Exhibit QQQ # <u>70</u> Exhibit RRR # <u>71</u> Exhibit SSS # <u>72</u> Exhibit TTT # <u>73</u> Exhibit UUU # <u>74</u> Exhibit VVV # <u>75</u> Exhibit WWW # <u>76</u> Exhibit XXX # <u>77</u> Exhibit YYY # <u>78</u> Exhibit ZZZ # <u>79</u> Exhibit AAAA # <u>80</u> Exhibit BBBB # <u>81</u> Exhibit CCCC # <u>82</u> Exhibit DDDD # <u>83</u> Exhibit EEEE # <u>84</u> Exhibit FFFF # <u>85</u> Exhibit GGGG # <u>86</u> Exhibit MMMM # <u>87</u> Exhibit NNNN # <u>88</u> Exhibit OOOO # <u>89</u> Exhibit PPPP # <u>90</u> Exhibit QQQQ # <u>91</u> Exhibit RRRR # <u>92</u> Exhibit SSSS # <u>93</u> Exhibit TTTT # <u>94</u> Exhibit UUUU # <u>95</u> Exhibit VVVV # <u>96</u> Exhibit WWWW # <u>97</u> Exhibit XXXX # <u>98</u> Exhibit YYYY # <u>99</u> Exhibit ZZZZ # <u>100</u> Exhibit AAAAA # <u>101</u> Exhibit BBBB # <u>102</u> Exhibit CCCC # <u>103</u> Exhibit DDDD # <u>104</u> Exhibit EEEE # <u>105</u> Exhibit FFFF # <u>106</u> Exhibit GGGG # <u>107</u> Exhibit HHHH # <u>108</u> Exhibit IIII # <u>109</u> Exhibit JJJJ # <u>110</u> Exhibit KKKK # <u>111</u> Exhibit LLLL # <u>112</u> Exhibit MMMM # <u>113</u> Exhibit NNNN # <u>114</u> Exhibit OOOO # <u>115</u> Exhibit PPPP # <u>116</u> Exhibit QQQQ # <u>117</u> Exhibit RRRR # <u>118</u> Exhibit SSSS # <u>119</u> Exhibit TTTT # <u>120</u> Exhibit UUUU # <u>121</u> Exhibit VVVV # <u>122</u> Exhibit WWWW # <u>123</u> Exhibit XXXX # <u>124</u> Exhibit YYYYY # <u>125</u> Exhibit ZZZZ # <u>126</u> Exhibit AAAAAA # <u>127</u> Exhibit BBBB # <u>128</u> Exhibit CCCCC # <u>129</u> Exhibit DDDDD # <u>130</u> Exhibit EEEEE # <u>131</u> Exhibit FFFFF # <u>132</u> Exhibit GGGGG # <u>133</u> Exhibit HHHHH # <u>134</u> Exhibit IIII # <u>135</u> Exhibit JJJJJ # <u>136</u> Exhibit KKKKK # <u>137</u> Exhibit LLLLL # <u>138</u> Exhibit MMMMM # <u>139</u> Exhibit NNNNN # <u>140</u> Exhibit OOOOO # <u>141</u> Exhibit PPPPP # <u>142</u> Exhibit QQQQQ # <u>143</u> Exhibit RRRRR # <u>144</u> Exhibit SSSSS # <u>145</u> Exhibit TTTTT # <u>146</u> Exhibit UUUUU # <u>147</u> Exhibit VVVVV # <u>148</u> Exhibit WWWWW # <u>149</u> Exhibit XXXXX # <u>150</u> Exhibit YYYYY # <u>151</u> Exhibit ZZZZZ) (Annable, Zachery) Additional attachment(s) added on 1/27/2021 (Okafor, M.). Modified on 1/27/2021 (Okafor, M.). Additional attachment(s) added on 1/28/2021 (Okafor, M.).
01/22/2021	<u>1823</u> Response unopposed to (related document(s): <u>1828</u> Response filed by Debtor Highland Capital Management, L.P.. Modified linkage on 1/25/2021 (Ecker, C.).
01/22/2021	<u>1828</u> Response opposed to (related document(s): <u>1661</u> Objection to confirmation of plan filed by Interested Party James Dondero, <u>1662</u> Objection to confirmation of plan filed by Creditor City of Richardson, Creditor Allen ISD, Creditor Kaufman County, Creditor Dallas County, Creditor City of Allen, <u>1666</u> Objection to confirmation of plan filed by Interested Party Jack Yang, Interested Party Brad Borud, <u>1667</u> Objection to confirmation of plan filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1668</u> Objection to confirmation of plan filed by Creditor United States (IRS), <u>1669</u> Objection to confirmation of plan filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, <u>1670</u> Objection to confirmation of plan filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Interested



	Party Highland Funds I and its series, Interested Party Highland Healthcare Opportunities Fund, Interested Party Highland/iBoxx Senior Loan ETF, Interested Party Highland Opportunistic Credit Fund, Interested Party Highland Merger Arbitrage Fund, Interested Party Highland Funds II and its series, Interested Party Highland Small-Cap Equity Fund, Interested Party Highland Fixed Income Fund, Interested Party Highland Socially Responsible Equity Fund, Interested Party Highland Total Return Fund, Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, Interested Party NexPoint Real Estate Strategies Fund, <u>1671</u> Objection, <u>1673</u> Objection to confirmation of plan filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC, <u>1676</u> Objection to confirmation of plan filed by Interested Party NexBank, Interested Party NexBank Capital Inc., Interested Party NexBank Securities Inc., Interested Party NexBank Title Inc., <u>1678</u> Objection to confirmation of plan filed by Creditor Patrick Daugherty) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery) Modified date on 1/25/2021 (Ecker, C.). (Entered: 01/25/2021)
01/23/2021	<u>1824</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/23/2021	<u>1825</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1785</u> Order granting motion for expedited hearing (Related Doc <u>1778</u> )(document set for hearing: <u>1777</u> Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief)) Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , Entered on 1/20/2021.) No. of Notices: 1. Notice Date 01/23/2021. (Admin.)
01/24/2021	<u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # <u>1</u> Service List) (Vasek, Julian)
01/25/2021	<u>1827</u> Emergency Motion to continue hearing on (related documents <u>1808</u> Chapter 11 plan) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
01/25/2021	<u>1829</u> Notice ( <i>Notice of Increase in Hourly Rates for Hayward PLLC (Formerly Hayward &amp; Associates PLLC) Effective as of January 1, 2021</i> ) filed by Other Professional Hayward & Associates PLLC. (Annable, Zachery)
01/25/2021	<u>1830</u> Order granting motion to continue hearing on (related document # <u>1827</u> ) (related documents Modified Chapter 11 plan) Confirmation hearing to be held on 2/2/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 1/25/2021. (Okafor, M.)
01/25/2021	<u>1831</u> Order granting motion to file exhibits under seal (related document # <u>1806</u> ) Entered on 1/25/2021. (Okafor, M.)
01/25/2021	<u>1832</u> Notice of hearing filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # <u>1</u> Proposed Order)). Hearing to be held on 3/2/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1745</u> , (Draper, Douglas)
01/25/2021	<u>1833</u> Notice ( <i>Notice of Certificate of Service re: Letter Dated January 19, 2021 to PCMG Trading Partners XXIII, L.P. from James P. Seery, Jr. re Highland Select Equity Fund, L.P.</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/25/2021	<u>1834</u> Certificate of service re: Notice Of Hearing filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1832</u> Notice of hearing). (Draper, Douglas)

01/25/2021	<u>1835</u> INCORRECT ENTRY: Attorney to refile. Motion to redact/restrict Emergency Redact (related document(s): <u>1822</u> ) (Fee Amount \$26) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery) MODIFIED on 1/26/2021 (Ecker, C.).
01/25/2021	Receipt of filing fee for Motion to Redact/Restrict From Public View(19-34054-sgj11) [motion,mredact] ( 26.00). Receipt number 28441834, amount \$ 26.00 (re: Doc# <u>1835</u> ). (U.S. Treasury)
01/25/2021	<u>1836</u> Motion to file document under seal. <i>Emergency Motion to File Competing Plan and Disclosure Statement Under Seal</i> Filed by Interested Party NexPoint Advisors, L.P. (Attachments: # <u>1</u> Proposed Order) (Rukavina, Davor)
01/25/2021	<u>1837</u> Certificate of service re: 1) <i>Notice of Hearing on Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Relief</i> ; and 2) <i>Order Granting Debtors Motion for an Expedited Hearing on the Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1783</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1777</u> Motion for leave ( <i>Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B-1 # 3 Exhibit B-2 # 4 Exhibit C)). Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , filed by Debtor Highland Capital Management, L.P., <u>1785</u> Order granting motion for expedited hearing (Related Doc <u>1778</u> )(document set for hearing: <u>1777</u> Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief) Hearing to be held on 1/26/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1777</u> , Entered on 1/20/2021.). (Kass, Albert)
01/26/2021	<u>1838</u> Notice ( <i>Notice of Settlement</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A—Settlement Agreement) (Annable, Zachery)
01/26/2021	<u>1839</u> WITHDRAWN at # <u>1858</u> . Notice to take deposition of Frank Waterhouse filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Hogewood, A.) Modified on 1/29/2021 (Ecker, C.).
01/26/2021	<u>1840</u> INCORRECT ENTRY: Attorney to refile. Motion to withdraw document <i>Notice of Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only</i> (related document(s) <u>1669</u> Objection to confirmation of plan) Filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (Smith, Frances) MODIFIED on 1/27/2021 (Ecker, C.).
01/26/2021	<u>1841</u> Certificate of service re: Notice of Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1840</u> Motion to withdraw document <i>Notice of Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only</i> (related document(s) <u>1669</u> Objection to confirmation of plan)). (Smith, Frances)
01/26/2021	<u>1842</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor

	Comm. Atty, Period: 12/1/2020 to 12/31/2020, Fee: \$416,359.08, Expenses: \$5,403.36. Filed by Attorney Juliana Hoffman Objections due by 2/16/2021. (Hoffman, Juliana)
01/26/2021	<u>1843</u> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease). (Hayward, Melissa)
01/26/2021	<u>1844</u> Certificate of service re: <i>Documents Served on January 21, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1788</u> Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document <u>1625</u> ) Entered on 1/21/2021. (Okafor, M.), <u>1791</u> Notice ( <i>Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1648</u> Notice ( <i>Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)), <u>1719</u> Notice ( <i>Second Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)), <u>1749</u> Notice ( <i>Third Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation))). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/26/2021	<u>1850</u> Hearing held on 1/26/2021. (RE: related document(s) <u>1777</u> Motion for leave (Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; M. Clemente for UCC; J. Kane for CLO Holdco; D. Rukavina and L. Hogewood for Advisors and Funds; J. Wilson for J. Dondero. Evidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael) (Entered: 01/27/2021)
01/27/2021	<u>1845</u> <i>Withdrawal of Limited Objection of Senior Employees By Frank Waterhouse and Thomas Surgent Only</i> filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (RE: related document(s) <u>1669</u> Objection to confirmation of plan). (Smith, Frances)
01/27/2021	<u>1846</u> Notice to take deposition of Isaac Leventon filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)

01/27/2021	<u>1847</u> Notice ( <i>Fourth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
01/27/2021	<u>1848</u> Amended Motion to redact/restrict (related document(s): <u>1835</u> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order # <u>2</u> Exhibit PPPP # <u>3</u> Exhibit QQQQ # <u>4</u> Exhibit RRRR # <u>5</u> Exhibit SSSS # <u>6</u> Exhibit TTTT # <u>7</u> Exhibit UUUU # <u>8</u> Exhibit VVVV # <u>9</u> Exhibit WWWW # <u>10</u> Exhibit XXXX # <u>11</u> Exhibit YYYYY # <u>12</u> Exhibit ZZZZ # <u>13</u> Exhibit DDDDDDD) (Annable, Zachery)
01/27/2021	<u>1849</u> Order Granting Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief (related document # <u>1777</u> ) Entered on 1/27/2021. (Okafor, M.)
01/27/2021	<u>1851</u> Order granting motion to seal documents (related document # <u>1836</u> ) Entered on 1/27/2021. (Okafor, M.)
01/27/2021	<u>1852</u> Order Granting Amended Emergency Motion to Redact Certain Exhibits Attached to Debtors Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021 (Related Doc # <u>1848</u> ) Entered on 1/27/2021. (Okafor, M.)
01/27/2021	<u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1,620,489.60, Expenses: \$8,974.00. Filed by Attorney Juliana Hoffman Objections due by 2/17/2021. (Hoffman, Juliana)
01/27/2021	<u>1854</u> Certificate of service re: <i>Documents Served on January 22, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1807</u> INCORRECT EVENT: Attorney to refile. Notice ( <i>Debtor's Omnibus Reply to Objections to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management L.P. (with Technical Modifications)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1661</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Party James Dondero., <u>1662</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by City of Richardson, Allen ISD, City of Allen, Dallas County, Kaufman County., <u>1666</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Brad Borud, Jack Yang., <u>1667</u> Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust., <u>1668</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor United States (IRS)., <u>1669</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon. (Attachments: # 1 Exhibit A # 2 Exhibit B), <u>1670</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund. (Attachments: # 1 Exhibit A), <u>1673</u> Objection to confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan) filed by Creditor NexPoint Real Estate Partners LLC



f/k/a HCRE Partners LLC., 1676 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Interested Parties NexBank Title Inc., NexBank Securities Inc., NexBank Capital Inc., NexBank., 1678 Objection to confirmation of plan (RE: related document(s)1472 Chapter 11 plan) filed by Creditor Patrick Daugherty.). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) (Annable, Zachery) MODIFIED on 1/25/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., 1808 Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1472 Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., 1809 Support/supplemental document (*Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)*) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., 1811 NOTICE (Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). (Attachments: # 1 Exhibit Q # 2 Exhibit R # 3 Exhibit S # 4 Exhibit T # 5 Exhibit U # 6 Exhibit V # 7 Exhibit W # 8 Exhibit X # 9 Exhibit Y # 10 Exhibit Z # 11 Exhibit AA # 12 Exhibit BB # 13 Exhibit CC # 14 Exhibit DD) (Annable, Zachery) Modified text on 1/25/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., 1814 Memorandum of Law in support of confirmation filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). (Annable, Zachery) Modified on 1/25/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., 1822 (REDACTED EXHIBITS ADDED 01/27/2021); Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)1808 Chapter 11 plan). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 List of 20 Largest Creditors C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Exhibit J # 11 Exhibit K # 12 Exhibit L # 13 Exhibit M # 14 Exhibit N # 15 Exhibit O # 16 Exhibit P # 17 Exhibit Q # 18 Exhibit R # 19 Exhibit S # 20 Exhibit T # 21 Exhibit U # 22 Exhibit V # 23 List of 20 Largest Creditors W # 24 Exhibit X # 25 Exhibit Y # 26 Exhibit Z # 27 Exhibit AA # 28 Exhibit BB # 29 Exhibit CC # 30 Exhibit DD # 31 Exhibit EE # 32 Exhibit FF # 33 Exhibit GG # 34 Exhibit HH # 35 Exhibit II # 36 Exhibit JJ # 37 Exhibit KK # 38 Exhibit LL # 39 Exhibit MM # 40 Exhibit NN # 41 Exhibit OO # 42 Exhibit PP # 43 Exhibit QQ # 44 Exhibit RR # 45 Exhibit SS # 46 Exhibit TT # 47 Exhibit UU # 48 Exhibit VV # 49 Exhibit WW # 50 Exhibit XX # 51 Exhibit YY # 52 Exhibit ZZ # 53 Exhibit AAA # 54 Exhibit BBB # 55 Exhibit CCC # 56 Exhibit DDD # 57 Exhibit EEE # 58 Exhibit FFF # 59 Exhibit GGG # 60 Exhibit HHH # 61 Exhibit III # 62 Exhibit JJJ # 63 Exhibit KKK # 64 Exhibit LLL # 65 Exhibit MMM # 66 Exhibit NNN # 67 Exhibit OOO # 68 Exhibit PPP # 69 Exhibit QQQ # 70 Exhibit RRR # 71 Exhibit SSS # 72 Exhibit TTT # 73 Exhibit UUU # 74 Exhibit VVV # 75 Exhibit WWW # 76 Exhibit XXX # 77 Exhibit YYY # 78 Exhibit ZZZ # 79 Exhibit AAAA # 80 Exhibit BBBB # 81 Exhibit CCCC # 82 Exhibit DDDD # 83 Exhibit EEEE # 84 Exhibit FFFF # 85 Exhibit GGGG # 86 Exhibit MMMM # 87 Exhibit NNNN # 88 Exhibit OOOO # 89 Exhibit PPPP # 90 Exhibit QQQQ # 91 Exhibit RRRR # 92 Exhibit SSSS # 93 Exhibit TTTT # 94 Exhibit UUUU # 95 Exhibit VVVV # 96 Exhibit WWWW # 97 Exhibit XXXX # 98 Exhibit YYYYY # 99 Exhibit ZZZZ # 100 Exhibit AAAAA # 101 Exhibit BBBB # 102 Exhibit CCCC # 103 Exhibit DDDD # 104 Exhibit EEEEE # 105 Exhibit FFFF # 106 Exhibit GGGG # 107 Exhibit HHHH # 108 Exhibit IIII # 109 Exhibit JJJJ # 110 Exhibit KKKK # 111 Exhibit LLLL # 112 Exhibit MMMM # 113 Exhibit NNNN # 114 Exhibit OOOO # 115 Exhibit PPPP # 116 Exhibit QQQQ # 117 Exhibit RRRR # 118 Exhibit SSSS # 119 Exhibit TTTT # 120 Exhibit UUUU # 121 Exhibit VVVV # 122 Exhibit WWWW # 123 Exhibit XXXX # 124 Exhibit YYYYY # 125 Exhibit ZZZZ # 126 Exhibit AAAAAA # 127 Exhibit BBBB # 128 Exhibit CCCC # 129 Exhibit DDDDD # 130 Exhibit EEEEE # 131 Exhibit FFFF # 132 Exhibit GGGG # 133 Exhibit HHHHH # 134 Exhibit IIII # 135 Exhibit JJJJ # 136 Exhibit KKKK # 137 Exhibit LLLL # 138 Exhibit MMMM # 139 Exhibit NNNN # 140 Exhibit OOOO # 141 Exhibit PPPP # 142 Exhibit QQQQ # 143 Exhibit RRRR # 144 Exhibit SSSS # 145 Exhibit TTTT # 146 Exhibit UUUU # 147 Exhibit VVVV # 148 Exhibit WWWW # 149 Exhibit XXXX # 150 Exhibit YYYYY # 151 Exhibit ZZZZ) (Annable, Zachery) Additional attachment(s) added on 1/27/2021 (Okafor, M.). Modified on 1/27/2021 (Okafor, M.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

01/28/2021	<u>1855</u> Notice of Appearance and Request for Notice by Jeff P. Prostok filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Prostok, Jeff)
01/28/2021	<u>1856</u> Notice of Appearance and Request for Notice by Suzanne K. Rosen filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P.. (Rosen, Suzanne)
01/28/2021	<u>1857</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Proposed Order)). Hearing to be held on 2/2/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1624</u> , (Annable, Zachery)
01/28/2021	<u>1858</u> <i>Withdrawal of Notice of Deposition</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1839</u> Notice to take deposition). (Hogewood, A.)
01/28/2021	<b>1859 SEALED document regarding: PLAN OF REORGANIZATION OF JAMES DONDERO, NEXPOINT ADVISORS, L.P. per court order</b> filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1851</u> Order on motion to seal). (Rukavina, Davor)
01/28/2021	<b>1860 SEALED document regarding: DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF REORGANIZATION per court order</b> filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1851</u> Order on motion to seal). (Rukavina, Davor)
01/28/2021	<u>1861</u> Certificate of service re: <i>Documents Served on or Before January 25, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1824</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1827</u> Emergency Motion to continue hearing on (related documents <u>1808</u> Chapter 11 plan) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>1829</u> Notice ( <i>Notice of Increase in Hourly Rates for Hayward PLLC (Formerly Hayward &amp; Associates PLLC) Effective as of January 1, 2021</i> ) filed by Other Professional Hayward & Associates PLLC. filed by Other Professional Hayward & Associates PLLC, <u>1830</u> Order granting motion to continue hearing on (related document <u>1827</u> ) (related documents Modified Chapter 11 plan) Confirmation hearing to be held on 2/2/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Entered on 1/25/2021. (Okafor, M.). (Kass, Albert)
01/29/2021	<u>1862</u> Transcript regarding Hearing Held 01/26/2021 (257 pages) RE: KERP Motion <u>1777</u> . THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 04/29/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1850</u> Hearing held on 1/26/2021. (RE: related document(s) <u>1777</u> Motion for leave (Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; M. Clemente for UCC; J. Kane for CLO Holdco; D. Rukavina and L. Hogewood for Advisors and Funds; J. Wilson for J. Dondero. Evidentiary hearing. Motion granted. Counsel to upload order.)). Transcript to be made available to the public on 04/29/2021. (Rehling, Kathy)

01/29/2021	<p><u>1863</u> Amended Witness and Exhibit List of <i>Funds and Advisors</i> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s)<u>1793</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> Exhibit 42 # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44 # <u>45</u> Exhibit 45 # <u>46</u> Exhibit 46 # <u>47</u> Exhibit 47 # <u>48</u> Exhibit 48 # <u>49</u> Exhibit 49 # <u>50</u> Exhibit 50 # <u>51</u> Exhibit 51 # <u>52</u> Exhibit 52 # <u>53</u> Exhibit 53 # <u>54</u> Exhibit 54 # <u>55</u> Exhibit 55 # <u>56</u> Exhibit 56 # <u>57</u> Exhibit 57 # <u>58</u> Exhibit 58 # <u>59</u> Exhibit 59 # <u>60</u> Exhibit 60 # <u>61</u> Exhibit 61 # <u>62</u> Exhibit 62 # <u>63</u> Exhibit 63 # <u>64</u> Exhibit 64 # <u>65</u> Exhibit 65 # <u>66</u> Exhibit 66 # <u>67</u> Exhibit 67 # <u>68</u> Exhibit 68 # <u>69</u> Exhibit 69 # <u>70</u> Exhibit 70 # <u>71</u> Exhibit 71 # <u>72</u> Exhibit 72 # <u>73</u> Exhibit 73 # <u>74</u> Exhibit 74 # <u>75</u> Exhibit 75 # <u>76</u> Exhibit 76 # <u>77</u> Exhibit 77 # <u>78</u> Exhibit 78 # <u>79</u> Exhibit 79 # <u>80</u> Exhibit 80 # <u>81</u> Exhibit 81 # <u>82</u> Exhibit 82) (Hogewood, A.)</p>
01/29/2021	<p><u>1864</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from November 1, 2020 through November 30, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
01/29/2021	<p><u>1865</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2020 through December 31, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
01/29/2021	<p><u>1866</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1822</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit SSSSS # <u>2</u> Exhibit AAAAAAA # <u>3</u> Exhibit BBBB BBB # <u>4</u> Exhibit CCCCCC # <u>5</u> Exhibit DDDDDDD # <u>6</u> Exhibit EEEEEEE) (Annable, Zachery)</p>
01/29/2021	<p><u>1867</u> Certificate of service re: 1) <i>Notice of Settlement</i>; 2) <i>Fourteenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from December 1, 2020 Through December 31, 2020</i>; and 3) <i>Stipulation Extending Deadline to Assume Lease and Setting Motion to Assume for Hearing at Confirmation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1838</u> Notice (<i>Notice of Settlement</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A—Settlement Agreement) filed by Debtor Highland Capital Management, L.P., <u>1842</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 12/31/2020, Fee: \$416,359.08, Expenses: \$5,403.36.</i> Filed by Attorney Juliana Hoffman Objections due by 2/16/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1843</u> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>

02/01/2021	Adversary case 3:20-ap-3128 closed (Ecker, C.)
02/01/2021	<u>1868</u> Supplemental Objection to confirmation of plan <i>with Certificate of Service</i> (RE: related document(s) <u>1472</u> Chapter 11 plan, <u>1808</u> Chapter 11 plan) filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
02/01/2021	<u>1869</u> Certificate of service re: Monthly Staffing Reports by Development Specialists, Inc. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1864</u> Notice (generic), <u>1865</u> Notice (generic)). (Annable, Zachery)
02/01/2021	<u>1870</u> Notice of appeal <i>and Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust. Appellant Designation due by 02/16/2021. (Draper, Douglas). Related document(s) <u>1788</u> Order on motion to compromise controversy. Modified LINKAGE on 2/4/2021 (Blanco, J.).
02/01/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcap] ( 298.00). Receipt number 28458158, amount \$ 298.00 (re: Doc# <u>1870</u> ). (U.S. Treasury)
02/01/2021	<u>1871</u> Reply to (related document(s): <u>1784</u> Objection filed by Interested Party James Dondero) ( <i>Debtor's Reply to James Dondero's Objection to Debtor's Proposed Assumption of Executory Contracts and Cure Amounts Proposed in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/01/2021	<u>1872</u> <b>SEALED document regarding: Exhibit 76 per court order</b> filed by Interested Parties Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1831</u> Order on motion to seal). (Attachments: # <u>1</u> Exhibit 77 # <u>2</u> Exhibit 78 # <u>3</u> Exhibit 79 # <u>4</u> Exhibit 80 # <u>5</u> Exhibit 81 # <u>6</u> Exhibit 82) (Vasek, Julian)
02/01/2021	<u>1873</u> Notice ( <i>Fifth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). (Annable, Zachery)
02/01/2021	<u>1874</u> Amended Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1795</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Dondero Ex. 1 # <u>2</u> Dondero Ex. 2 # <u>3</u> Dondero Ex. 3 # <u>4</u> Dondero Ex. 4 # <u>5</u> Dondero Ex. 5 # <u>6</u> Dondero Ex. 6 # <u>7</u> Dondero Ex. 7 # <u>8</u> Dondero Ex. 8 # <u>9</u> Dondero Ex. 9 # <u>10</u> Dondero Ex. 10 # <u>11</u> Dondero Ex. 11 # <u>12</u> Dondero Ex. 12 # <u>13</u> Dondero Ex. 13 # <u>14</u> Dondero Ex. 14 # <u>15</u> Dondero Ex. 15 # <u>16</u> Dondero Ex. 16 # <u>17</u> Dondero Ex. 17 # <u>18</u> Dondero Ex. 18 # <u>19</u> Dondero Ex. 19 # <u>20</u> Dondero Ex. 20) (Assink, Bryan)
02/01/2021	<u>1875</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit DD # <u>4</u> Exhibit EE # <u>5</u> Exhibit FF) (Annable, Zachery)



02/01/2021	<u>1876</u> Withdrawal ( <i>Notice of Withdrawal of Document</i> ) filed by Interested Party James Dondero (RE: related document(s) <u>1784</u> Objection). (Assink, Bryan)
02/01/2021	<u>1877</u> Amended Witness and Exhibit List ( <i>Debtor's Second Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1822</u> List (witness/exhibit/generic), <u>1866</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit SSSSS # <u>2</u> Exhibit DDDDDD # <u>3</u> Exhibit FFFFFFFF # <u>4</u> Exhibit GGGGGGG # <u>5</u> Exhibit HHHHHHH # <u>6</u> Exhibit IIIIII # <u>7</u> Exhibit JJJJJJ # <u>8</u> Exhibit KKKKKKK # <u>9</u> Exhibit LLLLLLL # <u>10</u> Exhibit MMMMMMM # <u>11</u> Exhibit NNNNNNN # <u>12</u> Exhibit OOOOOO # <u>13</u> Exhibit PPPPPP # <u>14</u> Exhibit QQQQQQ) (Annable, Zachery)
02/01/2021	<u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Proposed Order Exhibit A # <u>2</u> Exhibit Exhibit B) (Montgomery, Paige)
02/01/2021	<u>1879</u> Certificate of service re: <i>Documents Served on January 27, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1846</u> Notice to take deposition of Isaac Leventon filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1847</u> Notice ( <i>Fourth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1606</u> Support/supplemental document ( <i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Attachments: # <u>1</u> Exhibit I—Schedule of Contracts and Leases to Be Assumed # <u>2</u> Exhibit J—Amended Form of Senior Employee Stipulation # <u>3</u> Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P., <u>1849</u> Order Granting Motion of the Debtor for Entry of an Order Authorizing the Debtor to Implement a Key Employee Retention Plan with Non-Insider Employees and Granting Related Relief (related document <u>1777</u> ) Entered on 1/27/2021. (Okafor, M.), <u>1852</u> Order Granting Amended Emergency Motion to Redact Certain Exhibits Attached to Debtors Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021 (Related Doc <u>1848</u> ) Entered on 1/27/2021. (Okafor, M.)). (Kass, Albert)
02/01/2021	<u>1880</u> Response opposed to (related document(s): <u>1868</u> Objection to confirmation of plan filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
02/01/2021	<u>1881</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47.). (Hoffman, Juliana)
02/02/2021	<u>1882</u> Clerk's correspondence requesting File an amended appeal from attorney for appellant. (RE: related document(s) <u>1870</u> Notice of appeal and <i>Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust. Appellant Designation due by 02/16/2021.) Responses due by 2/5/2021. (Blanco, J.)
02/02/2021	<u>1884</u> Request for transcript regarding a hearing held on 2/2/2021. The requested turn-around time is hourly. (Edmond, Michael)
02/02/2021	<u>1885</u> Hearing continued (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan).) Continued Confirmation hearing to be held on 2/3/2021 at 09:30 AM at Dallas Judge

	Jernigan Ctrm. (Edmond, Michael)
02/02/2021	<u>1886</u> Certificate of service re: <i>Documents Served on or Before January 28, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1,620,489.60, Expenses: \$8,974.00. Filed by Attorney Juliana Hoffman Objections due by 2/17/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1857</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Proposed Order)). Hearing to be held on 2/2/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1624</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/02/2021	<u>1921</u> Hearing held on 2/2/2021. (RE: related document(s) <u>1624</u> Motion to assume executory contract or unexpired lease Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, J. Morris, I. Kharesh, and G. Demo for Debtor; M. Clemente for UCC; T. Mascherin for Redeemer Committee; R. Patel for Acis; A. Clubock for UBS; J. Kathman for P. Daugherty; E. Weisgerber for HarbourVest; C. Taylor for J. Dondero; D. Rukavina and A. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Drawhorn for NexBank; M. Held for Crescent landlord. L. Lambert for UST. Matter not taken up in light of all-day confirmation hearing.) (Edmond, Michael) (Entered: 02/09/2021)
02/02/2021	<u>1922</u> Hearing held on 2/2/2021. (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Appearances: J. Pomeranz, J. Morris, I. Kharesh, and G. Demo for Debtor; M. Clemente for UCC; T. Mascherin for Redeemer Committee; R. Patel for Acis; A. Clubock for UBS; J. Kathman for P. Daugherty; E. Weisgerber for HarbourVest; C. Taylor for J. Dondero; D. Rukavina and A. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Drawhorn for NexBank; M. Held for Crescent landlord. L. Lambert for UST. Evidentiary hearing. Hearing recessed and will resume on 2/3/21.) (Edmond, Michael) (Entered: 02/09/2021)
02/03/2021	<u>1887</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/03/2021	<u>1888</u> WITHDRAWN at # <u>3031</u> . Application for administrative expenses Filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc. (Drawhorn, Lauren) MODIFIED and terminated on 11/18/2021 (Ecker, C.).
02/03/2021	<u>1889</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1870</u> Notice of appeal). (Draper, Douglas)
02/03/2021	<u>1890</u> Request for transcript regarding a hearing held on 2/3/2021. The requested turn-around time is hourly. (Edmond, Michael)
02/03/2021	<u>1891</u> Certificate of service re: <i>Supplemental Certification of Patrick M. Leathem with Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1887</u> Chapter 11 ballot summary filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/03/2021	<u>1892</u> Certificate of service re: <i>1) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from November 1, 2020 Through November 30, 2020; 2) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2020 Through December 31, 2020; and 3) Debtor's Amended</i>

	<p><i>Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1864</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from November 1, 2020 through November 30, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Other Professional Development Specialists, Inc., <u>1865</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from December 1, 2020 through December 31, 2020</i>) filed by Other Professional Development Specialists, Inc. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Other Professional Development Specialists, Inc., <u>1866</u> Amended Witness and Exhibit List (<i>Debtor's Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1822</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit SSSSS # 2 Exhibit AAAAAAA # 3 Exhibit BBBB BBB # 4 Exhibit CCCCCC # 5 Exhibit DDDDDDD # 6 Exhibit EEEEEEE) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/03/2021	<p><u>1893</u> Certificate of service re: <i>Documents Served on February 1, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1871</u> Reply to (related document(s): <u>1784</u> Objection filed by Interested Party James Dondero) (<i>Debtor's Reply to James Dondero's Objection to Debtor's Proposed Assumption of Executory Contracts and Cure Amounts Proposed in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1873</u> Notice (<i>Fifth Notice of (I) Executory Contracts and Unexpired Leases to Be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, If Any, and (III) Related Procedures in Connection Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1606</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan). (Attachments: # 1 Exhibit I—Schedule of Contracts and Leases to Be Assumed # 2 Exhibit J—Amended Form of Senior Employee Stipulation # 3 Exhibit K—Redline of Form of Senior Employee Stipulation)). filed by Debtor Highland Capital Management, L.P., <u>1875</u> Support/supplemental document (<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1808</u> Chapter 11 plan). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit DD # 4 Exhibit EE # 5 Exhibit FF) filed by Debtor Highland Capital Management, L.P., <u>1877</u> Amended Witness and Exhibit List (<i>Debtor's Second Amended Witness and Exhibit List with Respect to Confirmation Hearing to Be Held on February 2, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1822</u> List (witness/exhibit/generic), <u>1866</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit SSSSS # 2 Exhibit DDDDDD # 3 Exhibit FFFFFFFF # 4 Exhibit GGGGGGG # 5 Exhibit HHHHHHH # 6 Exhibit IIIIII # 7 Exhibit JJJJJJ # 8 Exhibit KKKKKKK # 9 Exhibit LLLLLLL # 10 Exhibit MMMMMMM # 11 Exhibit NNNNNNN # 12 Exhibit OOOOOOO # 13 Exhibit PPPPPPP # 14 Exhibit QQQQQQQ) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/03/2021	<p><u>1902</u> Bench Ruling set (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan).) Hearing to be held on 2/8/2021 at 09:00 AM Dallas Judge Jernigan Ctrm for <u>1808</u>, (Ellison, T.) (Entered: 02/05/2021)</p>
02/03/2021	<p><u>1915</u> Court admitted exhibits date of hearing February 3, 2021 (RE: related document(s)<u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1472</u> Chapter 11 plan).) (COURT ADMITTED ALL THE DEBTOR'S EXHIBIT'S THAT APPEAR AT DOC. #1822, #1866 &amp; #1877 &amp; DONDERO'S EXHIBITS #6 THROUGH #12, #15, 16 &amp; #17; &amp; HIGHLAND CAPTIAL MGMT. FUNDING EXHIBIT #2 AT DOC. #1863 AND JUDGE JERNIGAN TOOK JUDICIAL NOTICE OF THE DEBTOR'S SCHEDULES) (Edmond, Michael) (Entered: 02/03/2021)</p>

	02/08/2021)
02/03/2021	1923 Hearing held on 2/3/2021. (RE: related document(s) <a href="#">1808</a> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">1472</a> Chapter 11 plan) (Appearances: J. Pomeranz, J. Morris, I. Kharesh, and G. Demo for Debtor; M. Clemente for UCC; T. Mascherin for Redeemer Committee; R. Patel for Acis; A. Clubock for UBS; J. Kathman for P. Daugherty; E. Weisgerber for HarbourVest; C. Taylor for J. Dondero; D. Rukavina and A. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Drawhorn for NexBank and NexPoint; L. Lambert for UST. Evidentiary hearing. Court took matter under advisement after conclusion of evidence and arguments. Bench ruling scheduled for 2/8/21 at 9:00 am.) (Edmond, Michael) (Entered: 02/09/2021)
02/04/2021	<a href="#">1894</a> Transcript regarding Hearing Held 02/02/2021 (295 pages) RE: Confirmation Hearing, Day One (#1808); Motion to Assume (#1624). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/5/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <a href="#">1885</a> Hearing continued (RE: related document(s) <a href="#">1808</a> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">1472</a> Chapter 11 plan).) Continued Confirmation hearing to be held on 2/3/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm.). Transcript to be made available to the public on 05/5/2021. (Rehling, Kathy)
02/04/2021	<a href="#">1895</a> Amended Witness and Exhibit List ( <i>Debtor's Third Amended Witness and Exhibit List with Respect to Confirmation Hearing Held on February 3, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">1877</a> List (witness/exhibit/generic)). (Attachments: # <a href="#">1</a> Exhibit PPPPPPP # <a href="#">2</a> Exhibit RRRRRRR # <a href="#">3</a> Exhibit SSSSSSS # <a href="#">4</a> Exhibit TTTTTTT # <a href="#">5</a> Exhibit UUUUUUU) (Annable, Zachery)
02/04/2021	<a href="#">1896</a> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <a href="#">1623</a> Motion to extend time to assume unexpired nonresidential real property lease). (Hayward, Melissa)
02/05/2021	<a href="#">1898</a> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/05/2021	<a href="#">1899</a> Notice of docketing notice of appeal. Civil Action Number: 3:21-CV-00261-L (Lindsay). (RE: related document(s) <a href="#">1870</a> Notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas). Related document(s) <a href="#">1788</a> Order on motion to compromise controversy. Modified LINKAGE on 2/4/2021 (Blanco, J.), <a href="#">1889</a> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <a href="#">1870</a> Notice of appeal.) (Blanco, J.)
02/05/2021	<a href="#">1900</a> Certificate of mailing regarding appeal (RE: related document(s) <a href="#">1889</a> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <a href="#">1870</a> Notice of appeal.) (Blanco, J.) Additional attachment(s) added on 2/5/2021 (Blanco, J.).
02/05/2021	<a href="#">1901</a> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <a href="#">1870</a> Notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust. Related document(s) <a href="#">1788</a> Order on motion to compromise controversy. Modified LINKAGE on 2/4/2021 (Blanco, J.).) (Blanco, J.)
02/05/2021	<a href="#">1903</a> Order approving stipulation extending deadline to assume lease and setting motion to assume for hearing oat confirmation, which is currently set for February 2, 2021 at 9:30 a.m (RE: related document(s) <a href="#">1843</a> Stipulation filed by Debtor Highland Capital Management,



	L.P.). Entered on 2/5/2021 (Okafor, M.)
02/05/2021	<u>1904</u> Order approving second stipulation extending deadline to assume lease and setting motion to assume for hearing at confirmation (RE: related document(s) <u>1896</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.)
02/05/2021	<u>1905</u> Transcript regarding Hearing Held 02/03/2021 (257 pages) RE: Confirmation Hearing, Day Two (#1808); Motion to Assume (#1624). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/6/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 1885 Hearing continued (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan).) Continued Confirmation hearing to be held on 2/3/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm.). Transcript to be made available to the public on 05/6/2021. (Rehling, Kathy)
02/05/2021	<u>1906</u> Certificate of service re: <i>Official Committee of Unsecured Creditors' Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
02/05/2021	<u>1907</u> Certificate of service re: <i>Response of the Official Committee of Unsecured Creditors to Supplemental Objection to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i> Filed by the Dugaboy Investment Trust and Get Good Trust Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1880</u> Response opposed to (related document(s): <u>1868</u> Objection to confirmation of plan filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
02/05/2021	<u>1908</u> Certificate of service re: <i>Documents Served on February 4, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1895</u> Amended Witness and Exhibit List ( <i>Debtor's Third Amended Witness and Exhibit List with Respect to Confirmation Hearing Held on February 3, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1877</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit P P P P P P P # 2 Exhibit R R R R R R R # 3 Exhibit S S S S S S S # 4 Exhibit T T T T T T T # 5 Exhibit U U U U U U U) filed by Debtor Highland Capital Management, L.P., <u>1896</u> Stipulation by Highland Capital Management, L.P. and Crescent TC Investors, L.P., filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1623</u> Motion to extend time to assume unexpired nonresidential real property lease). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/05/2021	<u>1909</u> Certificate of service re: <i>(Supplemental) Solicitation Materials Served on February 1, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1630</u> Certificate of service re: <i>Solicitation Materials Served on or Before December 2, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1472</u> Amended chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>944</u> Chapter 11 plan, <u>1079</u> Chapter 11 plan, <u>1287</u> Chapter 11 plan, <u>1383</u> Chapter 11 plan, <u>1450</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P., <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>945</u> Disclosure statement, <u>1080</u> Disclosure statement, <u>1289</u> Disclosure statement, <u>1384</u> Disclosure statement, <u>1453</u> Disclosure statement). filed by Debtor Highland Capital Management, L.P., <u>1476</u> Order approving

	disclosure statement and setting hearing on confirmation of plan (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P. and <u>1473</u> Amended disclosure statement filed by Debtor Highland Capital Management, L.P. ). Confirmation hearing to be held on 1/13/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Last day to Object to Confirmation 1/5/2021. Ballots due 1/5/2021. Entered on 11/24/2020 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
02/06/2021	<u>1910</u> Appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1870</u> Notice of appeal, <u>1889</u> Amended notice of appeal, <u>1899</u> Notice of docketing notice of appeal/record, <u>1900</u> Certificate of mailing regarding appeal, <u>1901</u> Notice regarding the record for a bankruptcy appeal). Appellee designation due by 02/22/2021. (Draper, Douglas)
02/06/2021	<u>1911</u> Statement of issues on appeal, filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1870</u> Notice of appeal, <u>1889</u> Amended notice of appeal, <u>1899</u> Notice of docketing notice of appeal/record, <u>1901</u> Notice regarding the record for a bankruptcy appeal, <u>1910</u> Appellant designation). (Draper, Douglas)
02/08/2021	<u>1912</u> Clerk's correspondence requesting Amended designation from attorney for appellant. (RE: related document(s) <u>1910</u> Appellant designation of contents for inclusion in record on appeal) Responses due by 2/10/2021. (Blanco, J.)
02/08/2021	<u>1913</u> Request for transcript (ruling only) regarding a hearing held on 2/8/2021. The requested turn-around time is hourly. (Edmond, Michael)
02/08/2021	<u>1914</u> Motion for leave ( <i>Motion for Status Conference</i> ) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan)
02/08/2021	<u>1924</u> Hearing held on 2/8/2021. (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Appearances: J. Pomeranz; M. Clemente for UCC; M. Lynn, J. Bonds, and B. Assink for J. Dondero; D. Rukavina and L. Hogewood for Advisors and Funds; D. Draper for Dugaboy and Get Good Trusts; L. Lambert for UST (numerous others; full roll call not taken). Court read bench ruling approving plan. Counsel to incorporate courts bench ruling into their own set of FOFs, COLS and Order to be submitted.) (Edmond, Michael) (Entered: 02/09/2021)
02/09/2021	<u>1916</u> Notice of hearing ( <i>Status Conference</i> ) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # <u>1</u> Service List)). Status Conference to be held on 3/22/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Attachments: # <u>1</u> Service List) (Vasek, Julian)
02/09/2021	<u>1917</u> Transcript regarding Hearing Held 02/08/2021 (51 pages) RE: Bench Ruling. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/10/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>1902</u> Bench Ruling set (RE: related document(s) <u>1808</u> Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan).) Hearing to be held on 2/8/2021 at 09:00 AM Dallas Judge Jernigan Ctrm for <u>1808</u> , (Ellison, T.)). Transcript to be made available to the public on 05/10/2021. (Rehling, Kathy)
02/09/2021	<u>1918</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)

02/09/2021	<u>1919</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to December 31, 2020</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
02/09/2021	<u>1920</u> Certificate of service re: 1) Debtors Notice of Rule 30(b)(6) Deposition to NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC; 2) Order Approving Stipulation Extending Deadline to Assume Lease and Setting Motion to Assume for Hearing at Confirmation; and 3) Order Approving Second Stipulation Extending Deadline to Assume Lease and Setting Motion to Assume for Hearing at Confirmation Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1898</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1903</u> Order approving stipulation extending deadline to assume lease and setting motion to assume for hearing oat confirmation, which is currently set for February 2, 2021 at 9:30 a.m (RE: related document(s) <u>1843</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.), <u>1904</u> Order approving second stipulation extending deadline to assume lease and setting motion to assume for hearing at confirmation (RE: related document(s) <u>1896</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/5/2021 (Okafor, M.)). (Kass, Albert)
02/09/2021	<u>1925</u> Application for compensation <i>First Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 11/1/2020 to 12/31/2020, Fee: \$73121.04, Expenses: \$10.35. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 3/2/2021. (Hesse, Gregory)
02/10/2021	<u>1926</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1771</u> Application for compensation <i>Fifteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from December 1, 2020 through December 31, 2020</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to). (Pomerantz, Jeffrey)
02/10/2021	<u>1927</u> Application for compensation <i>Fourteenth Application of FTI Consulting, Inc. for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 12/31/2020, Fee: \$239,297.76, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 3/3/2021. (Hoffman, Juliana)
02/10/2021	<u>1928</u> Amended appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1910</u> Appellant designation). (Draper, Douglas)
02/11/2021	<u>1929</u> Order denying motion for status conference (related document # <u>1914</u> ) Entered on 2/11/2021. (Ecker, C.)
02/11/2021	<u>1930</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Stanton Law Firm PC (Claim No. 163, Amount \$88,133.99) To Cedar Glade LP. Filed by Creditor Cedar Glade LP. (Attachments: # <u>1</u> Evidence of Transfer) (Tanabe, Keshia)
02/12/2021	<u>1931</u> Agreed Order granting motion to assume nonresidential real property lease with Crescent TC Investors, L.P. (related document # <u>1624</u> ) Entered on 2/12/2021. (Okafor, M.)
02/12/2021	

	<p><u>1932</u> Certificate of service re: 1) Debtors Notice of Deposition to James Dondero in Connection with Debtors Objection to Proof of Claim Filed by HCRE Partners, LLC; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to December 31, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1918</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1919</u> Notice (Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to December 31, 2020) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
02/13/2021	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] ( 26.00). Receipt number 28493529, amount \$ 26.00 (re: Doc# <u>1930</u>). (U.S. Treasury)</p>
02/16/2021	<p><u>1933</u> Agreed Motion to continue hearing on (related documents <u>1826</u> Application for administrative expenses) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Hogewood, A.)</p>
02/16/2021	<p><u>1934</u> Certificate of service re: <i>Fourteenth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from December 1, 2020 to and Including December 31, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1927</u> Application for compensation <i>Fourteenth Application of FTI Consulting, Inc. for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 12/31/2020, Fee: \$239,297.76, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 3/3/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
02/17/2021	<p><u>1935</u> Adversary case 21-03010. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Adversary Cover Sheet). Nature(s) of suit: 91 (Declaratory judgment). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 72 (Injunctive relief – other). (Annable, Zachery)</p>
02/17/2021	<p><u>1936</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>1643</u> Agreed Motion to substitute attorney David Neier with Frances A. Smith, Michelle Hartmann, and Debra A. Dandeneau Filed by Creditor Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon (Attachments: # 1 Proposed Order)) Responses due by 2/24/2021. (Ecker, C.)</p>
02/17/2021	<p><u>1937</u> Order granting motion to continue hearing on (related document <u>1933</u>) (related documents Application for administrative expenses) The Status Conference is hereby continued from March 22, 2021 at 9:30 a.m. to to such date and time on or after March 29, 2021 that is determined by the Court. (Okafor, M.) MODIFIED to correct hearing setting on 2/17/2021 (Okafor, M.).</p>
02/18/2021	<p><u>1938</u> Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i>). (Annable, Zachery)</p>



02/18/2021	<u>1939</u> Certificate of service re: <i>Agreed Order on Motion to Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1931</u> Agreed Order granting motion to assume nonresidential real property lease with Crescent TC Investors, L.P. (related document <u>1624</u> ) Entered on 2/12/2021. (Okafor, M.). (Kass, Albert)
02/19/2021	<u>1940</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1842</u> Application for compensation <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 12/31/2020, Fee: \$416,359.08, Expenses:). (Hoffman, Juliana)
02/22/2021	<u>1941</u> Certificate of Counsel filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1924</u> Hearing held). (Annable, Zachery)
02/22/2021	<u>1942</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1870</u> Notice of appeal, <u>1889</u> Amended notice of appeal, <u>1899</u> Notice of docketing notice of appeal/record, <u>1900</u> Certificate of mailing regarding appeal, <u>1901</u> Notice regarding the record for a bankruptcy appeal). (Annable, Zachery)
02/22/2021	<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
02/22/2021	<u>1944</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from January 1, 2021 through January 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 1/1/2021 to 1/31/2021, Fee: \$2,557,604.00, Expenses: \$32,906.65. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 3/15/2021. (Pomerantz, Jeffrey)
02/23/2021	<u>1945</u> Certificate of service re: <i>Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust and Get Good Trust</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1938</u> Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1745</u> Motion to appoint trustee <i>Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c)</i> ). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/24/2021	<u>1946</u> Clerk's correspondence requesting from attorney for appellant. (RE: related document(s) <u>1928</u> Amended appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1910</u> Appellant designation).) Responses due by 3/10/2021. (Blanco, J.)
02/24/2021	<u>1947</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 3/22/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1878</u> , (Montgomery, Paige)
02/24/2021	<u>1948</u> Notice ( <i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.). (Annable, Zachery)

02/24/2021	<u>1949</u> Debtor-in-possession monthly operating report for filing period December 1, 2020 to December 31, 2020 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/24/2021	<u>1950</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)) No. of Notices: 8. Notice Date 02/24/2021. (Admin.)
02/25/2021	<u>1951</u> Amended appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1942</u> Appellee designation). (Annable, Zachery)
02/25/2021	Receipt of Registry Funds – \$43976.75 by SD. Receipt Number 338805. (admin)
02/25/2021	Receipt of Registry Funds – \$3022.74 by SD. Receipt Number 338806. (admin)
02/25/2021	<u>1952</u> Certificate of service re: <i>Documents Served on February 22, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1941</u> Certificate of Counsel filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 1924 Hearing held). filed by Debtor Highland Capital Management, L.P., <u>1942</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1870</u> Notice of appeal, <u>1889</u> Amended notice of appeal, <u>1899</u> Notice of docketing notice of appeal/record, <u>1900</u> Certificate of mailing regarding appeal, <u>1901</u> Notice regarding the record for a bankruptcy appeal). filed by Debtor Highland Capital Management, L.P., <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.), <u>1944</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from January 1, 2021 through January 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 1/1/2021 to 1/31/2021, Fee: \$2,557,604.00, Expenses: \$32,906.65. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 3/15/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/26/2021	<u>1953</u> Agreed Order granting motion to substitute attorney adding Frances Anne Smith for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Michelle Hartmann for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Debra A. Dandeneau for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, terminating David Neier. (related document # <u>1643</u> ) Entered on 2/26/2021. (Okafor, M.)
02/26/2021	<u>1954</u> Certificate of service re: <i>1) Notice of Hearing on Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation; and 2) Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1947</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 3/22/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1878</u> , filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1948</u> Notice ( <i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

02/28/2021	<u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Rukavina, Davor)
02/28/2021	<u>1956</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1953</u> Agreed Order granting motion to substitute attorney adding Frances Anne Smith for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Michelle Hartmann for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, Debra A. Dandeneau for Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon, terminating David Neier. (related document <u>1643</u> ) Entered on 2/26/2021. (Okafor, M.)) No. of Notices: 3. Notice Date 02/28/2021. (Admin.)
03/01/2021	<u>1957</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/15/2021. (Attachments: # <u>1</u> Exhibit A)(Rukavina, Davor)
03/01/2021	Receipt of filing fee for Notice of appeal(19–34054–sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28523950, amount \$ 298.00 (re: Doc# <u>1957</u> ). (U.S. Treasury)
03/01/2021	<u>1958</u> Motion for expedited hearing(related documents <u>1955</u> Motion to stay pending appeal) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Rukavina, Davor)
03/01/2021	<u>1959</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Action Shred Of Texas (Amount \$3,825.00) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. (Knox, Victor)
03/01/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19–34054–sgj11) [claims,trclmagt] ( 26.00). Receipt number 28524853, amount \$ 26.00 (re: Doc# <u>1959</u> ). (U.S. Treasury)
03/01/2021	<u>1960</u> Order Denying Motion to Appoint Examiner Pursuant to 11 U.S.C. § 1104(c) (related document # <u>1745</u> ) Entered on 3/1/2021. (Okafor, M.)
03/01/2021	<u>1961</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 9/1/2020 to 11/30/2020, Fee: \$1.). (Hoffman, Juliana)
03/02/2021	<u>1962</u> Certificate of service re: <i>Appellees Amended Supplemental Designation of Record on Appeal</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1951</u> Amended appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1942</u> Appellee designation). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/02/2021	<u>1963</u> Application for compensation <i>Sidley Austin LLP's 15th Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 1/1/2021 to 1/31/2021, Fee: \$655,724.88, Expenses: \$6,612.00. Filed by Attorney Juliana Hoffman Objections due by 3/23/2021. (Hoffman, Juliana)
03/03/2021	<u>1964</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/03/2021	<u>1965</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)

03/03/2021	<u>1966</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/17/2021. (Hogewood, A.)
03/03/2021	<u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.)
03/03/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28532838, amount \$ 298.00 (re: Doc# <u>1966</u> ). (U.S. Treasury)
03/03/2021	<u>1968</u> Application for compensation <i>15th Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2021 to 1/31/2021, Fee: \$244,315.80, Expenses: \$0.00. Filed by Attorney Juliana Hoffman Objections due by 3/24/2021. (Hoffman, Juliana)
03/03/2021	<u>1969</u> Objection to (related document(s): <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party James Dondero. (Assink, Bryan)
03/04/2021	<u>1970</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero. Appellant Designation due by 03/18/2021. (Attachments: # <u>1</u> Exhibit)(Taylor, Clay)
03/04/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28537086, amount \$ 298.00 (re: Doc# <u>1970</u> ). (U.S. Treasury)
03/04/2021	<u>1971</u> Joinder by <i>Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # <u>1</u> Exhibit Opinion) (Draper, Douglas)
03/04/2021	<u>1972</u> Notice of appeal <i>Notice of Appeal and Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/18/2021. (Draper, Douglas)
03/04/2021	<u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Taylor, Clay)
03/04/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28537308, amount \$ 298.00 (re: Doc# <u>1972</u> ). (U.S. Treasury)
03/04/2021	<u>1974</u> Stipulation by Highland Capital Management, L.P. and the Official Committee of Unsecured Creditors; Highland Capital Management Fund Advisors, L.P.; NexPoint Advisors, L.P.; Highland Income Fund; NexPoint Strategic Opportunities Fund; Highland Global Allocation Fund; NexPoint Capital, Inc.; James Dondero; The Dugaboy Investment Trust; and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Annable, Zachery)
03/05/2021	<u>1976</u> Certificate of No Objection Regarding First Monthly Fee Application filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>1925</u> Application for compensation <i>First Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special



	Counsel, Period: 11/1/2020 to 12/31/2020, Fee: \$73121.04, Expenses: \$10.35.). (Hesse, Gregory)
03/05/2021	<u>1977</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 12 Number of appellee volumes: 13. Civil Case Number: 3:20-CV-03390-X (RE: related document(s) <u>1347</u> Notice of appeal ) (Blanco, J.)
03/05/2021	<u>1978</u> Notice of docketing COMPLETE record on appeal. 3:20-CV-03390-X (RE: related document(s) <u>1347</u> Notice of appeal filed by Interested Party James Dondero (RE: related document(s) <u>1302</u> Order on motion to compromise controversy). (Blanco, J.)
03/05/2021	<u>1979</u> Order approving stipulation regarding briefing (Re: related document(s) <u>1974</u> Stipulation) and setting hearing (RE: related document(s) <u>1955</u> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund). Hearing to be held on 3/19/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1955</u> and for <u>1967</u> , Entered on 3/5/2021 (Okafor, M.)
03/05/2021	<u>1980</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1927</u> Application for compensation <i>Fourteenth Application of FTI Consulting, Inc. for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 12/31/2020, Fee: \$239,297). (Hoffman, Juliana)
03/07/2021	<u>1981</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>1979</u> Order approving stipulation regarding briefing (Re: related document(s) <u>1974</u> Stipulation) and setting hearing (RE: related document(s) <u>1955</u> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund). Hearing to be held on 3/19/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1955</u> and for <u>1967</u> , Entered on 3/5/2021 (Okafor, M.)) No. of Notices: 2. Notice Date 03/07/2021. (Admin.)
03/08/2021	<u>1986</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1966</u> Notice of appeal . filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
03/08/2021	<u>1987</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1966</u> Notice of appeal . filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Whitaker, Sheniqua)
03/08/2021	<u>1988</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1957</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Attachments: # 1 Exhibit A)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
03/08/2021	<u>1989</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1957</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)

03/08/2021	<u>1990</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1970</u> Notice of appeal . filed by Interested Party James Dondero. (Attachments: # 1 Exhibit)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
03/08/2021	<u>1991</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1970</u> Notice of appeal . filed by Interested Party James Dondero. (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
03/08/2021	<u>1992</u> Certificate of mailing regarding appeal (RE: related document(s) <u>1972</u> Notice of appeal <i>Notice of Appeal and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
03/08/2021	<u>1993</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1972</u> Notice of appeal <i>Notice of Appeal and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Whitaker, Sheniqua)
03/08/2021	<u>1994</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.), <u>1971</u> Joinder by <i>Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit Opinion), <u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)).). Hearing to be held on 3/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1967</u> and for <u>1973</u> and for <u>1955</u> and for <u>1971</u> , (Annable, Zachery)
03/08/2021	<u>1995</u> Notice to take deposition of Paul Broaddus filed by HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC), Highland Capital Management Services, Inc.. (Drawhorn, Lauren)
03/08/2021	<u>1996</u> Notice to take deposition of Mark Patrick filed by HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC), Highland Capital Management Services, Inc.. (Drawhorn, Lauren)
03/08/2021	<u>1997</u> Certificate of service re: <i>Documents Served on or Before March 3, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1963</u> Application for compensation <i>Sidley Austin LLP's 15th Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 1/1/2021 to 1/31/2021, Fee: \$655,724.88, Expenses: \$6,612.00. Filed by Attorney Juliana Hoffman Objections due by 3/23/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1964</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1965</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>1968</u> Application for compensation <i>15th Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2021 to 1/31/2021, Fee: \$244,315.80, Expenses: \$0.00. Filed by Attorney Juliana Hoffman Objections due by 3/24/2021. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)

03/08/2021	<p><u>1998</u> Certificate of service re: 1) [Customized for Rule 3001(e)(1) or 3001(e)(3)] Notice of Transfer of Claim Pursuant to F.R.B.P 3001(e)(1) or 3001(e)(3); and 2) [Customized for Rule 3001(e)(2) or 3001(e)(4)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1377</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise &amp; Plimpton LLP (Claim No. 94, Amount \$268,095.08) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. filed by Creditor Contrarian Funds LLC, <u>1378</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise &amp; Plimpton LLP (Claim No. 97, Amount \$268,095.08) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. filed by Creditor Contrarian Funds LLC, <u>1379</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: Debevoise &amp; Plimpton LLP (Amount \$20,658.79) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. filed by Creditor Contrarian Funds LLC, <u>1401</u> Assignment/Transfer of Claim. Fee Amount \$25. Transfer Agreement 3001 (e) 2 Transferors: DLA Piper LLP (US) (Amount \$1,318,730.36) To Contrarian Funds LLC. Filed by Creditor Contrarian Funds LLC. filed by Creditor Contrarian Funds LLC). (Kass, Albert)</p>
03/08/2021	<p><u>1999</u> Certificate of service re: 1) [Customized for Rule 3001(e)(1) or 3001(e)(3)] Notice of Transfer of Claim Pursuant to F.R.B.P 3001(e)(1) or 3001(e)(3); and 2) [Customized for Rule 3001(e)(2) or 3001(e)(4)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1500</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Katten Muchin Rosenman LLP (Claim No. 26, Amount \$16,695.00) To Cedar Glade LP. Filed by Creditor Cedar Glade LP. (Attachments: # 1 Evidence of Transfer) filed by Creditor Cedar Glade LP, <u>1508</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Daniel Sheehan &amp; Associates, PLLC (Claim No. 47, Amount \$32,433.75) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. filed by Creditor Fair Harbor Capital, LLC, <u>1509</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Vengroff Williams Inc (American Arbitration Assoc (Claim No. 33, Amount \$12,911.80) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. filed by Creditor Fair Harbor Capital, LLC, <u>1512</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Foley Gardere, Foley Lardner LLP To Hain Capital Investors Master Fund, Ltd. Filed by Creditor Hain Capital Group, LLC. filed by Creditor Hain Capital Group, LLC, <u>1582</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: CVE Technologies Group Inc. (Amount \$1,500.00) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. filed by Creditor Fair Harbor Capital, LLC, <u>1591</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Bates White LLC (Amount \$90,855.70) To Argo Partners. Filed by Creditor Argo Partners. filed by Creditor Argo Partners, <u>1658</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: ACA Compliance Group (Amount \$26,324.25) To Argo Partners. Filed by Creditor Argo Partners. filed by Creditor Argo Partners, <u>1930</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Stanton Law Firm PC (Claim No. 163, Amount \$88,133.99) To Cedar Glade LP. Filed by Creditor Cedar Glade LP. (Attachments: # 1 Evidence of Transfer) filed by Creditor Cedar Glade LP). (Kass, Albert)</p>
03/09/2021	<p><u>2000</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-00538-N. (RE: related document(s)<u>1957</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s)<u>1943</u> Order confirming chapter 11 plan). (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)</p>
03/09/2021	<p><u>2001</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-00539-N. (RE: related document(s)<u>1966</u> Notice of appeal . filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s)<u>1943</u> Order confirming chapter 11 plan). (Hogewood, A.)) (Whitaker, Sheniqua)</p>

03/09/2021	<u>2002</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-00546-L. (RE: related document(s) <u>1970</u> Notice of appeal . filed by Interested Party James Dondero. (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
03/09/2021	<u>2003</u> Application for compensation ( <i>First Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through July 31, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 7/31/2020, Fee: \$87,972.80, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)
03/09/2021	<u>2004</u> Application for compensation ( <i>Second Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 8/1/2020 to 8/31/2020, Fee: \$91,353.40, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)
03/09/2021	<u>2005</u> Application for compensation ( <i>Third Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from September 1, 2020 through September 30, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 9/1/2020 to 9/30/2020, Fee: \$78,594.30, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)
03/09/2021	<u>2006</u> Certificate of service re: <i>Stipulation Regarding Briefing and Hearing Schedule</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1974</u> Stipulation by Highland Capital Management, L.P. and the Official Committee of Unsecured Creditors; Highland Capital Management Fund Advisors, L.P.; NexPoint Advisors, L.P.; Highland Income Fund; NexPoint Strategic Opportunities Fund; Highland Global Allocation Fund; NexPoint Capital, Inc.; James Dondero; The Dugaboy Investment Trust; and Get Good Trust. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/10/2021	<u>2007</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2021 through January 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
03/10/2021	<u>2008</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-00550-L. (RE: related document(s) <u>1972</u> Notice of appeal <i>Notice of Appeal and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Whitaker, Sheniqua)
03/10/2021	<u>2009</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). Status Conference to be held on 3/29/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> . (Annable, Zachery)
03/10/2021	<u>2011</u> Certificate of service re: <i>Order Approving Stipulation Regarding Briefing and Hearing Schedule</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1979</u> Order approving stipulation regarding briefing (Re: related document(s) <u>1974</u> Stipulation) and setting hearing (RE: related document(s) <u>1955</u> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund). Hearing to be held on 3/19/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>1955</u>



	and for <u>1967</u> , Entered on 3/5/2021 (Okafor, M.)). (Kass, Albert)
03/10/2021	<u>2012</u> BNC certificate of mailing. (RE: related document(s) <u>1989</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1957</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). (Attachments: # 1 Exhibit A))) No. of Notices: 1. Notice Date 03/10/2021. (Admin.)
03/10/2021	<u>2013</u> BNC certificate of mailing. (RE: related document(s) <u>1993</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>1972</u> Notice of appeal <i>Notice of Appeal and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan).) No. of Notices: 1. Notice Date 03/10/2021. (Admin.)
03/11/2021	<u>2014</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1972</u> Notice of appeal). (Draper, Douglas)
03/11/2021	<u>2015</u> Statement of issues on appeal, filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1957</u> Notice of appeal). (Rukavina, Davor)
03/11/2021	<u>2016</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1957</u> Notice of appeal). Appellee designation due by 03/25/2021. (Rukavina, Davor)
03/11/2021	<u>2017</u> Certificate of service re: <i>Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1994</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.), <u>1971</u> Joinder by <i>Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit Opinion), <u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)).). Hearing to be held on 3/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1967</u> and for <u>1973</u> and for <u>1955</u> and for <u>1971</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/12/2021	<u>2018</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 6 Number of appellee volumes: 1. Civil Case Number: 3:20-CV-03408-G (RE: related document(s) <u>1339</u> Notice of appeal filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Blanco, J.)
03/12/2021	<u>2019</u> Notice of docketing record on appeal. 3:20-CV-03408-G (RE: related document(s) <u>1339</u> Notice of appeal filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Blanco, J.)
03/12/2021	<u>2021</u> Notice of transmittal 20-CV-03408-G 13 SEALED DOCUMENTS (RE: related document(s) <u>2019</u> Notice of docketing record on appeal. 3:20-CV-03408-G (RE: related document(s) <u>1339</u> Notice of appeal filed by Interested Parties UBS AG London Branch,

	UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Blanco, J.)). (Blanco, J.)
03/12/2021	<u>2022</u> Omnibus Response opposed to (related document(s): <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan, <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero) filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery). Modified linkage on 3/12/2021 (Rielly, Bill).
03/12/2021	<u>2023</u> Joinder by <i>the Official Committee of Unsecured Creditors</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2022</u> Response). (Hoffman, Juliana)
03/12/2021	<u>2024</u> Application for compensation – <i>Second Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 1/1/2021 to 1/31/2021, Fee: \$35042.76, Expenses: \$3.80. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 4/2/2021. (Hesse, Gregory)
03/12/2021	<u>2025</u> Application for compensation – <i>Third Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 2/1/2021 to 2/28/2021, Fee: \$37092.24, Expenses: \$94.54. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 4/2/2021. (Hesse, Gregory)
03/12/2021	<u>2026</u> Certificate of service re: <i>1) First Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 Through July 31, 2020; 2) Second Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from August 1, 2020 Through August 31, 2020; and 3) Third Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from September 1, 2020 Through September 30, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2003</u> Application for compensation ( <i>First Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through July 31, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 7/31/2020, Fee: \$87,972.80, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP, <u>2004</u> Application for compensation ( <i>Second Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 8/1/2020 to 8/31/2020, Fee: \$91,353.40, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP, <u>2005</u> Application for compensation ( <i>Third Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from September 1, 2020 through September 30, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 9/1/2020 to 9/30/2020, Fee: \$78,594.30, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP). (Kass, Albert)
03/12/2021	<u>2027</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1948</u> <i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland

	<p>Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>1954</u> Certificate of service re: <i>1) Notice of Hearing on Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation; and 2) Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1947</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 3/22/2021 at 01:30 PM Dallas Judge Jernigan Ctrm for <u>1878</u>, filed by Creditor Committee Official Committee of Unsecured Creditors, <u>1948</u> Notice (<i>Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
03/12/2021	<p><u>2028</u> Certificate of service re: <i>1) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2021 Through January 31, 2021; and 2) Notice of Status Conference</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2007</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from January 1, 2021 through January 31, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2009</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). Status Conference to be held on 3/29/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a>. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
03/15/2021	<p><u>2030</u> Debtor-in-possession monthly operating report for filing period January 1, 2021 to January 31, 2021 filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)</p>
03/15/2021	<p><u>2032</u> Notice of transmittal 3:20-CV-03390-X. CLERKS OFFICE OVERLOOKED SECOND APPELLEE. AMENDED MINI RECORD TO INCLUDE SECOND APPELLEE INDEX. ATTACHED ALSO: APPELLEE VOL. 27 (RE: related document(s)<u>1978</u> Notice of docketing COMPLETE record on appeal. 3:20-CV-03390-X (RE: related document(s)<u>1347</u> Notice of appeal filed by Interested Party James Dondero (RE: related document(s)<u>1302</u> Order on motion to compromise controversy). (Blanco, J.)). (Blanco, J.)</p>
03/16/2021	<p><u>2033</u> Motion for Certification to Court of Appeals (<i>Joint Motion</i>) Filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., Highland Global Allocation Fund, Highland Income Fund, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund, Get Good Trust, The Dugaboy Investment Trust, Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Proposed Order) (Rukavina, Davor)</p>
03/16/2021	<p><u>2034</u> Order certifying appeals of the confirmation order for direct appeal to the United States Court of appeals for the Fifth Circuit (Related Doc # <u>2033</u>) Entered on 3/16/2021. (Okafor, M.)</p>
03/16/2021	<p><u>2035</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1944</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from January 1, 2021</i></p>

	<i>through January 31, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 1/1/2021 to 1/).</i> (Pomerantz, Jeffrey)
03/16/2021	<u>2036</u> Reply to (related document(s): <u>2022</u> Response filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P.. (Rukavina, Davor)
03/16/2021	<u>2037</u> Reply to (related document(s): <u>2022</u> Response filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. (Hogewood, A.)
03/16/2021	<u>2038</u> Second Notice of Additional Services to be Provided by Deloitte Tax LLP filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
03/16/2021	<u>2039</u> Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to January 31, 2021 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Hayward, Melissa)
03/17/2021	<u>2040</u> Statement of issues on appeal, filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1966</u> Notice of appeal). (Hogewood, A.)
03/17/2021	<u>2041</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1966</u> Notice of appeal). Appellee designation due by 03/31/2021. (Hogewood, A.)
03/17/2021	<u>2042</u> Certificate of service re: 1) Debtor's Omnibus Response to Motions for Stay Pending Appeal of the Confirmation Order; and 2) Omnibus Objection of the Official Committee of Unsecured Creditors Objection to Motions for Stay Pending Appeal of the Confirmation Order and Joinder in Debtors Omnibus Objection to Motions for Stay Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2022</u> Omnibus Response opposed to (related document(s): <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan, <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero) filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery). Modified linkage on 3/12/2021. filed by Debtor Highland Capital Management, L.P., <u>2023</u> Joinder by the Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2022</u> Response). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
03/17/2021	<u>2043</u> Witness and Exhibit List filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J # <u>11</u> Exhibit K # <u>12</u> Exhibit L # <u>13</u>



	Exhibit M) (Vasek, Julian)
03/17/2021	<u>2044</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Bhawika Jain To NexPoint Advisors LP. Filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)
03/17/2021	<u>2045</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Michael Beispiel To NexPoint Advisors LP. Filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)
03/17/2021	<u>2046</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Sang Kook (Michael) Jeong To NexPoint Advisors LP. Filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)
03/17/2021	<u>2047</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Phoebe Stewart To NexPoint Advisors LP. Filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)
03/17/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054- <u>sgj11</u> ) [claims,trclmagt] ( 26.00). Receipt number 28570099, amount \$ 26.00 (re: Doc# <u>2044</u> ). (U.S. Treasury)
03/17/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054- <u>sgj11</u> ) [claims,trclmagt] ( 26.00). Receipt number 28570099, amount \$ 26.00 (re: Doc# <u>2045</u> ). (U.S. Treasury)
03/17/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054- <u>sgj11</u> ) [claims,trclmagt] ( 26.00). Receipt number 28570099, amount \$ 26.00 (re: Doc# <u>2046</u> ). (U.S. Treasury)
03/17/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054- <u>sgj11</u> ) [claims,trclmagt] ( 26.00). Receipt number 28570099, amount \$ 26.00 (re: Doc# <u>2047</u> ). (U.S. Treasury)
03/17/2021	<u>2048</u> Declaration re: <i>Third Supplemental Declaration</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>336</u> Order on application to employ). (Hoffman, Juliana)
03/18/2021	<u>2052</u> Notice of transmittal to submit Amended Mini Record Vol. 1 to remove appellee index and to disregard Appellee Record Vol. 8 filed at doc 27 in 3:20-CV-03408-G (RE: related document(s) <u>2019</u> Notice of docketing record on appeal. 3:20-CV-03408-G (RE: related document(s) <u>1339</u> Notice of appeal filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>1273</u> Order on motion to compromise controversy). (Blanco, J.)). (Blanco, J.)
03/18/2021	<u>2053</u> Clerk's correspondence requesting Amended designation from attorney for Appellant. (RE: related document(s) <u>2041</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>1966</u> Notice of appeal). Appellee designation due by 03/31/2021. (Hogewood, A.)) Responses due by 3/24/2021. (Blanco, J.)
03/18/2021	<u>2054</u> Appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2014</u> Amended notice of appeal). Appellee designation due by 04/1/2021. (Draper, Douglas)
03/18/2021	<u>2055</u> Statement of issues on appeal, filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2014</u> Amended notice of appeal). (Draper, Douglas)

03/18/2021	<u>2056</u> Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>1970</u> Notice of appeal). (Taylor, Clay)
03/18/2021	<u>2057</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Party James Dondero (RE: related document(s) <u>1970</u> Notice of appeal, <u>2056</u> Statement of issues on appeal). Appellee designation due by 04/1/2021. (Taylor, Clay)
03/18/2021	<u>2058</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33) (Annable, Zachery)
03/18/2021	<u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahana Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. (Annable, Zachery)
03/18/2021	<u>2060</u> Motion to recuse Judge Jernigan Filed by Interested Party James Dondero (Lang, Michael)
03/18/2021	<u>2061</u> Brief in support filed by Interested Party James Dondero (RE: related document(s) <u>2060</u> Motion to recuse Judge Jernigan). (Lang, Michael)
03/18/2021	<u>2062</u> Support/supplemental document <i>Appendix to Motion to Recuse</i> filed by Interested Party James Dondero (RE: related document(s) <u>2060</u> Motion to recuse Judge Jernigan). (Lang, Michael)
03/19/2021	<u>2063</u> Request for transcript regarding a hearing held on 3/19/2021. The requested turn-around time is hourly. (Edmond, Michael)
03/19/2021	<u>2064</u> Motion to continue hearing on (related documents <u>1878</u> Motion to compel) Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
03/19/2021	<u>2065</u> Court admitted exhibits date of hearing March 19, 2021 (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.), <u>1971</u> Joinder by Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit Opinion), <u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents

	<u>1943</u> Order confirming chapter 11 plan)).) (COURT ADMITTED MOVANT'S EXHIBIT'S #A THROUGH #M BY DAVOR RUKAVINA & DEFENDANT'S EXHIBIT'S #1 THROUGH #33 BY JEFFREY POMERANTZ) (Edmond, Michael)
03/19/2021	<u>2066</u> Witness List ( <i>Debtor's Witness List with Respect to Hearing to Be Held on March 24, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero). (Annable, Zachery). Modified linkage on 3/19/2021 (Rielly, Bill).
03/19/2021	<u>2067</u> Hearing held on 3/19/2021. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P.) (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.) (Edmond, Michael)
03/19/2021	<u>2068</u> Hearing held on 3/19/2021. (RE: related document(s) <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.) (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.) (Edmond, Michael)
03/19/2021	<u>2069</u> Hearing held on 3/19/2021. (RE: related document(s) <u>1971</u> Joinder by Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit Opinion) (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.) (Edmond, Michael)
03/19/2021	<u>2070</u> Hearing held on 3/19/2021. (RE: related document(s) <u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan). (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending

	<p>appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.) (Edmond, Michael)</p>
03/19/2021	<p><u>2071</u> Witness List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Hoffman, Juliana). Related document(s) <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero. Modified to create linkages on 3/22/2021 (Tello, Chris).</p>
03/19/2021	<p><u>2072</u> Certificate of service re: <i>1) Second Notice of Additional Services to be Provided by Deloitte Tax LLP; and 2) Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to January 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2038</u> <i>Second Notice of Additional Services to be Provided by Deloitte Tax LLP</i> filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2039</u> <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to January 31, 2021</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
03/19/2021	<p><u>2077</u> Hearing set – follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal (RE: related document(s)<u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.), <u>1971</u> Joinder by <i>Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service</i> filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit Opinion), <u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s)<u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)).) Hearing to be held on 3/24/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1955</u> and for <u>1967</u> and for <u>1973</u> and for <u>1971</u>, (Ellison, T.) (Entered: 03/22/2021)</p>
03/20/2021	<p><u>2073</u> Transcript regarding Hearing Held 03/19/2021 (82 pages) RE: Motions/Joinders to Stay Pending Appeal. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 06/18/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, <a href="mailto:kathyrehlingtranscripts@gmail.com">kathyrehlingtranscripts@gmail.com</a>, Telephone number 972-786-3063. (RE: related document(s) <u>2067</u> Hearing held on 3/19/2021. (RE: related document(s)<u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P.) (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas</p>



	<p>bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.), 2068 Hearing held on 3/19/2021. (RE: related document(s) <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (Hogewood, A.) (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.), 2069 Hearing held on 3/19/2021. (RE: related document(s) <u>1971</u> Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit Opinion) (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.), 2070 Hearing held on 3/19/2021. (RE: related document(s) <u>1973</u> Joinder by filed by Interested Party James Dondero (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan). (Appearances: D. Rukavina for Advisors; L. Hogewood for Funds; C. Taylor for J. Dondero; D. Draper for Get Good and Dugaboy Trusts; J. Pomeranz for Debtor; M. Clemente for UCC. Evidentiary hearing. Motion denied, based on reasons stated orally court determined 4-factor test for a stay pending appeal not met. Court will hold a follow up hearing on whether a sufficient monetary bond/supersedeas bond might be posted to warrant a mandatory stay pending appeal, on 3/24/21 at 9:30 am, since the issue of monetary bond was not fully addressed in evidence and arguments. Mr. Pomeranz will submit written order memorializing today's hearing.)). Transcript to be made available to the public on 06/18/2021. (Rehling, Kathy)</p>
03/22/2021	<p><u>2074</u> Amended appellant designation of contents for inclusion in record on appeal filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s) <u>2041</u> Appellant designation). (Hogewood, A.)</p>
03/22/2021	<p><u>2075</u> Notice to take deposition of James P. Seery filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund. (Hogewood, A.)</p>
03/22/2021	<p><u>2076</u> Order granting motion to continue hearing on (related document # <u>2064</u>) (related documents Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. ) Hearing to be held on 4/5/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1878</u>, Entered on 3/22/2021. (Okafor, M.)</p>
03/22/2021	<p><u>2078</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit</p>

	Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021.). Hearing to be held on 5/3/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , (Annable, Zachery)
03/22/2021	<u>2079</u> Declaration re: ( <i>Supplemental Declaration of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 for Authorization to Employ and Retain Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>70</u> Application to employ Pachulski Stang Ziehl & Jones LLP as Attorney). (Annable, Zachery)
03/22/2021	<u>2080</u> Amended appellant designation of contents for inclusion in record on appeal filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>2016</u> Appellant designation). (Rukavina, Davor)
03/23/2021	<u>2081</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>1888</u> Application for administrative expenses Filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc.) Responses due by 4/6/2021. (Ecker, C.)
03/23/2021	<u>2082</u> Notice of Authority to Clerk of Bankruptcy Court filed by Get Good Trust, The Dugaboy Investment Trust. (Attachments: # <u>1</u> Order) (Draper, Douglas)
03/23/2021	<u>2083</u> Order denying motion to recuse (related document # <u>2060</u> ) Entered on 3/23/2021. (Okafor, M.)
03/23/2021	<u>2084</u> Order denying motion to stay pending appeal Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (related document # <u>1955</u> ), denying motion to stay pending appeal Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund(related document # <u>1967</u> ), denying Joinder by Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (related document # <u>1971</u> ), denying Joinder by filed by Interested Party James Dondero (related document # <u>1973</u> ). Hearing to be held on 3/24/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jernigan">https://us-courts.webex.com/meet/jernigan</a> for <u>1955</u> and for <u>1967</u> and for <u>1973</u> and for <u>1971</u> , Entered on 3/23/2021. (Okafor, M.)
03/23/2021	<u>2085</u> Amended Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 4/5/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1878</u> , (Montgomery, Paige)
03/23/2021	<u>2086</u> Support/supplemental document ( <i>Letter to Court Regarding Mandatory Stay Pending Appeal Bond Hearing</i> ) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>2077</u> Hearing set/continued, <u>2084</u> Order on motion to stay pending appeal, Order on motion to stay pending appeal). (Rukavina, Davor)
03/23/2021	<u>2087</u> Debtor's Supplemental Brief in opposition filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related

	documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Annable, Zachery). Related document(s) <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero. Modified to add linkages on 3/23/2021 (Tello, Chris).
03/23/2021	<u>2088</u> Amended Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2058</u> List (witness/exhibit/generic), <u>2066</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 34) (Annable, Zachery)
03/23/2021	<u>2089</u> Supplemental Response opposed to (related document(s): <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan) filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
03/23/2021	<u>2090</u> Certificate of service re: <i>Debtor's Witness and Exhibit List with Respect to Hearing to be Held on March 19, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2058</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/23/2021	<u>2091</u> Certificate of service re: <i>Debtor's Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrion; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert) Modified on 3/24/2021 (Rielly, Bill).
03/24/2021	<u>2092</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Scott Ellington (Claim No. 244) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2093</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Frank Waterhouse (Claim No. 217) To CPCM, LCC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2094</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Jean Paul Sevilla (Claim No. 241) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)

03/24/2021	<u>2095</u> Supplemental Order on Motions for stay pending appeal (RE: related document(s) <u>2084</u> Order, <u>1955</u> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <u>1967</u> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero). Entered on 3/24/2021 (Okafor, M.)
03/24/2021	<u>2096</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Isaac Leventon (Claim No. 216) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2097</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Lucy Bannon (Claim No. 235) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2098</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Jerome Carter (Claim No. 223) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2099</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Brian Collins (Claim No. 233) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2100</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Matthew DiOrio (Claim No. 230) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2101</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Hayley Eliason (Claim No. 236) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2102</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: William Gosserand (Claim No. 232) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2103</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Steven Haltom (Claim No. 224) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2104</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Charles Hoedebeck (Claim No. 228) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2105</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Mary Irving (Claim No. 231) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2106</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Helen Kim (Claim No. 226) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2107</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Kari Kovelan (Claim No. 227) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2108</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: William Mabry (Claim No. 234) To CPCM, LLC. Filed by Interested Party



	CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2109</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Mark Patrick (Claim No. 219) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2110</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Christopher Rice (Claim No. 220) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2111</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Jason Rothstein (Claim No. 229) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2112</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Kellie Stevens (Claim No. 221) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2113</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Ricky Swadley (Claim No. 237) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2114</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Lauren Thedford (Claim No. 222) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2115</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Stephanie Vitiello (Claim No. 225) To CPCM, LLC. Filed by Interested Party CPCM, LLC. (Hartmann, Margaret)
03/24/2021	<u>2116</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1963</u> Application for compensation <i>Sidley Austin LLP's 15th Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 1/1/2021 to 1/31/2021, Fee: \$655,7). (Hoffman, Juliana)
03/24/2021	<u>2117</u> Certificate of service re: <i>Documents Served on March 19, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2048</u> Declaration re: <i>Third Supplemental Declaration</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>336</u> Order on application to employ). filed by Financial Advisor FTI Consulting, Inc., <u>2064</u> Motion to continue hearing on (related documents <u>1878</u> Motion to compel) Filed by Creditor Committee Official Committee of Unsecured Creditors filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2066</u> Witness List ( <i>Debtor's Witness List with Respect to Hearing to Be Held on March 24, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1955</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan), <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero). (Annable, Zachery). Modified linkage on 3/19/2021. filed by Debtor Highland Capital Management, L.P., <u>2071</u> Witness List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1967</u> Motion to stay pending appeal (related documents <u>1943</u> Order confirming chapter 11 plan)). (Hoffman, Juliana). Related document(s) <u>1971</u> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>1973</u> Joinder filed by Interested Party James Dondero. Modified to create linkages on 3/22/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2092</u> ).

	(U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2093</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2094</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2096</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2097</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2098</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2099</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2100</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2101</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2102</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2103</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2104</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2105</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2106</a> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <a href="#">2107</a> ). (U.S. Treasury)

03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2108</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2109</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2110</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2111</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2112</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2113</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2114</u> ). (U.S. Treasury)
03/25/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28587981, amount \$ 26.00 (re: Doc# <u>2115</u> ). (U.S. Treasury)
03/25/2021	<u>2118</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/25/2021	<u>2119</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/25/2021	<u>2120</u> INCORRECT ENTRY: Attorney to refile. Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1968</u> Application for compensation <i>15th Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2021 to 1/31/2021, Fee: \$244,315.80, Expenses: \$0.00.). (Hoffman, Juliana) Modified on 3/26/2021 (Ecker, C.).
03/25/2021	<u>2121</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2084</u> Order denying motion to stay pending appeal Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (related document <u>1955</u> ), denying motion to stay pending appeal Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund(related document <u>1967</u> ), denying Joinder by Joinder to Motions for Stay Pending Appeal of the Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (related document <u>1971</u> ), denying Joinder by filed by Interested Party James Dondero (related document <u>1973</u> ). Hearing to be held on 3/24/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jernigan">https://us-courts.webex.com/meet/jernigan</a> for <u>1955</u> and for <u>1967</u> and for <u>1973</u> and for <u>1971</u> , Entered on 3/23/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 03/25/2021. (Admin.)

03/26/2021	<u>2122</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>1968</u> Application for compensation <i>15th Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 1/1/2021 to 1/31/2021, Fee: \$244,315.80, Expenses: \$0.00.). (Hoffman, Juliana)
03/26/2021	<u>2123</u> Amended Notice of hearing ( <i>Amended Notice of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). Status Conference to be held on 5/7/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> . (Annable, Zachery)
03/26/2021	<u>2124</u> Application for compensation <i>Seventeenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from February 1, 2021 through February 28, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2021 to 2/28/2021, Fee: \$1,358,786.50, Expenses: \$21,401.29. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 4/16/2021. (Pomerantz, Jeffrey)
03/26/2021	<u>2125</u> Certificate of service re: 1) <i>Order Granting the Motion for Continuance of Hearing on the Preservation Motion Filed by the Official Committee of Unsecured Creditors</i> ; 2) <i>Notice of Hearing on Debtor's Third Omnibus Objection to Certain No Liability Claims</i> ; and 3) <i>Supplemental Declaration of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 for Authorization to Employ and Retain Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2076</u> Order granting motion to continue hearing on (related document <u>2064</u> ) (related documents Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. ) Hearing to be held on 4/5/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1878</u> , Entered on 3/22/2021. (Okafor, M.), <u>2078</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broadus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021.). Hearing to be held on 5/3/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , filed by Debtor Highland Capital Management, L.P., <u>2079</u> Declaration re: ( <i>Supplemental Declaration of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 for Authorization to Employ and Retain Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>70</u> Application to employ Pachulski Stang Ziehl & Jones LLP as Attorney). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/26/2021	<u>2126</u> Certificate of service re: <i>Documents Served on March 23, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2084</u> Order denying motion to stay pending appeal Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (related document <u>1955</u> ), denying motion to stay pending appeal Filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund(related document <u>1967</u> ), denying Joinder by Joinder to Motions for Stay Pending Appeal of the



	<p>Court's Order Confirming the Debtor's Fifth Amended Plan with Certificate of Service filed by Get Good Trust, The Dugaboy Investment Trust (related document <a href="#">1971</a>), denying Joinder by filed by Interested Party James Dondero (related document <a href="#">1973</a>). Hearing to be held on 3/24/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jernigan">https://us-courts.webex.com/meet/jernigan</a> for <a href="#">1955</a> and for <a href="#">1967</a> and for <a href="#">1973</a> and for <a href="#">1971</a>, Entered on 3/23/2021. (Okafor, M.), <a href="#">2085</a> Amended Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<a href="#">1878</a> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Proposed Order Exhibit A # 2 Exhibit Exhibit B)). Hearing to be held on 4/5/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <a href="#">1878</a>, filed by Creditor Committee Official Committee of Unsecured Creditors, <a href="#">2087</a> Debtor's Supplemental Brief in opposition filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">1955</a> Motion to stay pending appeal (related documents <a href="#">1943</a> Order confirming chapter 11 plan), <a href="#">1967</a> Motion to stay pending appeal (related documents <a href="#">1943</a> Order confirming chapter 11 plan)). (Annable, Zachery). Related document(s) <a href="#">1971</a> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <a href="#">1973</a> Joinder filed by Interested Party James Dondero. Modified to add linkages on 3/23/2021. filed by Debtor Highland Capital Management, L.P., <a href="#">2088</a> Amended Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">2058</a> List (witness/exhibit/generic), <a href="#">2066</a> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 34) filed by Debtor Highland Capital Management, L.P., <a href="#">2089</a> Supplemental Response opposed to (related document(s): <a href="#">1955</a> Motion to stay pending appeal (related documents <a href="#">1943</a> Order confirming chapter 11 plan) filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <a href="#">1967</a> Motion to stay pending appeal (related documents <a href="#">1943</a> Order confirming chapter 11 plan) filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
03/26/2021	<p><a href="#">2127</a> BNC certificate of mailing – PDF document. (RE: related document(s)<a href="#">2095</a> Supplemental Order on Motions for stay pending appeal (RE: related document(s) <a href="#">2084</a> Order, <a href="#">1955</a> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <a href="#">1967</a> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, <a href="#">1971</a> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <a href="#">1973</a> Joinder filed by Interested Party James Dondero). Entered on 3/24/2021 (Okafor, M.)) No. of Notices: 1. Notice Date 03/26/2021. (Admin.)</p>
03/29/2021	<p><a href="#">2128</a> Motion for leave to file <i>Adversary Complaint and Other Materials Under Seal</i> Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Sosland, Martin)</p>
03/29/2021	<p><a href="#">2129</a> Motion to file document under seal. (<i>Debtor's Motion for Leave to File under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <a href="#">1</a> Exhibit A—Proposed Order) (Annable, Zachery)</p>
03/29/2021	<p><a href="#">2130</a> Certificate of service re: <i>Supplemental Order on Motions for Stay Pending Appeal</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">2095</a> Supplemental Order on Motions for stay pending appeal (RE: related document(s) <a href="#">2084</a> Order, <a href="#">1955</a> Motion to stay pending appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., <a href="#">1967</a> Motion to stay pending appeal filed by Interested Party NexPoint Capital, Inc., Interested Party NexPoint Strategic Opportunities Fund, Interested Party Highland Income Fund, Interested Party Highland Global Allocation Fund, <a href="#">1971</a> Joinder filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <a href="#">1973</a> Joinder filed by Interested Party James Dondero). Entered on 3/24/2021 (Okafor, M.)). (Kass, Albert)</p>

03/29/2021	<u>2131</u> Certificate of Conference filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2129</u> Motion to file document under seal. ( <i>Debtor's Motion for Leave to File under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal</i> )). (Annable, Zachery)
03/29/2021	<u>2132</u> Certificate of Conference filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>2128</u> Motion for leave to file Adversary Complaint and Other Materials Under Seal). (Sosland, Martin)
03/29/2021	<u>2133</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/28/2021. (Annable, Zachery)
03/29/2021	<u>2134</u> Notice to take deposition of HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/29/2021	<u>2135</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/30/2021	<u>2136</u> Notice to take deposition of Paul Broaddus filed by HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC), Highland Capital Management Services, Inc.. (Drawhorn, Lauren)
03/30/2021	<u>2137</u> Notice to take deposition of Mark Patrick filed by HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC), Highland Capital Management Services, Inc.. (Drawhorn, Lauren)
03/30/2021	<u>2138</u> INCORRECT EVENT: Attorney to refile. Notice ( <i>Joint Stipulation as to the Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED on 3/31/2021 (Ecker, C.).
03/31/2021	<u>2139</u> Withdrawal of claim(s): ( <i>Joint Stipulation as to the Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
03/31/2021	<u>2140</u> Order granting motion for leave to file Adversary Complaint and Other Materials Under Seal Filed by Interested Parties UBS AG London Branch, UBS Securities LLC(related document # <u>2128</u> ) Entered on 3/31/2021. (Okafor, M.)
03/31/2021	<u>2141</u> Certificate of service re: 1) <i>Debtor's Second Amended Notice of Rule 30(b)(6) Deposition to HCRE Partners, LLC</i> ; and 2) <i>Debtor's Second Amended Notice of Deposition to James Dondero in Connection with Debtor's Objection to Proof of Claim Filed by HCRE Partners, LLC</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2118</u> Notice to take deposition of NexPoint Real Estate Partners, LLC f/k/a HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2119</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
03/31/2021	<u>2142</u> Adversary case 21-03020. Complaint by UBS Securities LLC, UBS AG London Branch against Highland Capital Management, L.P.. Fee Amount \$350. Nature(s) of suit: 72 (Injunctive relief - other). (Sosland, Martin)
03/31/2021	<u>2143</u> Order approving joint stipulation as to withdrawal of Hunter Mountain Investment Trust's proof of claim No. 152 (RE: related document(s) <u>2139</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 3/31/2021 (Okafor, M.)

03/31/2021	<p><u>2144</u> Certificate of service re: <i>1) Amended Notice of Status Conference; and 2) Seventeenth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from February 1, 2021 Through February 28, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2123</u> Amended Notice of hearing (<i>Amended Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). Status Conference to be held on 5/7/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a>. filed by Debtor Highland Capital Management, L.P., <u>2124</u> Application for compensation <i>Seventeenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from February 1, 2021 through February 28, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2021 to 2/28/2021, Fee: \$1,358,786.50, Expenses: \$21,401.29. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 4/16/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
03/31/2021	<p><u>2145</u> Certificate of service re: <i>Documents Served on March 29, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2129</u> Motion to file document under seal. (<i>Debtor's Motion for Leave to File under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>2131</u> Certificate of Conference filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2129</u> Motion to file document under seal. (<i>Debtor's Motion for Leave to File under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal</i>)). filed by Debtor Highland Capital Management, L.P., <u>2133</u> Objection to claim(s) of Creditor(s) Integrated Financial Associates, Inc... Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/28/2021. filed by Debtor Highland Capital Management, L.P., <u>2134</u> Notice to take deposition of HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2135</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/01/2021	<p><u>2146</u> Order Granting Debtor's Motion for Leave to File under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal) Filed by Debtor Highland Capital Management, L.P. (related document # <u>2129</u>) Entered on 4/1/2021. (Okafor, M.)</p>
04/01/2021	Adversary case 3:20-ap-3105 closed (Ecker, C.)
04/01/2021	<p><u>2147</u> Response unopposed to (related document(s): <u>2128</u> Motion for leave to file <i>Adversary Complaint and Other Materials Under Seal</i> filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
04/01/2021	<p><b>2148 SEALED document regarding: (Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal) per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2146</u> Order on motion to seal). (Annable, Zachery)</p>
04/01/2021	<p><u>2149</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s)<u>2083</u> Order on motion to recuse Judge). Appellant Designation due by 04/15/2021. (Attachments: # <u>1</u> Exhibit)(Lang, Michael)</p>
04/01/2021	<p>Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal.ntcapl] ( 298.00). Receipt number 28609730, amount \$ 298.00 (re: Doc# <u>2149</u>). (U.S. Treasury)</p>

04/02/2021	<u>2150</u> Certificate of service re: <i>re: Joint Stipulation as to the Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2138</u> INCORRECT EVENT: Attorney to refile. Notice ( <i>Joint Stipulation as to the Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery) MODIFIED on 3/31/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/02/2021	<u>2151</u> Motion to appear pro hac vice for Zachary F. Proulx. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Clubok, Andrew)
04/02/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28612120, amount \$ 100.00 (re: Doc# <u>2151</u> ). (U.S. Treasury)
04/02/2021	<u>2152</u> Motion to appear pro hac vice for Kathryn K. George. Fee Amount \$100 Filed by Interested Parties UBS AG London Branch, UBS Securities LLC (Clubok, Andrew)
04/02/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28612132, amount \$ 100.00 (re: Doc# <u>2152</u> ). (U.S. Treasury)
04/02/2021	<u>2153</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. ). (Attachments: # <u>1</u> Ex. 1 # <u>2</u> Ex. 2 # <u>3</u> Ex. 3 # <u>4</u> Ex. 4 # <u>5</u> Ex. 5 # <u>6</u> Ex. 6 # <u>7</u> Ex. 7) (Assink, Bryan)
04/02/2021	<u>2154</u> Reply to (related document(s): <u>1969</u> Objection filed by Interested Party James Dondero) <i>Reply to James Dondero's Objection and Response to the Committees Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation</i> filed by Creditor Committee Official Committee of Unsecured Creditors. (Montgomery, Paige)
04/02/2021	<u>2155</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2014</u> Amended notice of appeal, ). (Annable, Zachery). Modified LINKAGE and TEXT on 4/6/2021 (Blanco, J.).
04/02/2021	<u>2156</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1970</u> Notice of appeal). (Annable, Zachery)
04/02/2021	<u>2157</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1966</u> Notice of appeal). (Annable, Zachery)
04/03/2021	<u>2158</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. ). (Montgomery, Paige)
04/05/2021	<u>2159</u> Amended Witness and Exhibit List <i>for April 5, 2021 Hearing</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2158</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8) (Montgomery, Paige)
04/05/2021	<u>2160</u> Application for compensation <i>Sidley Austin LLP's Sixteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured



	Creditors, Creditor Comm. Atty, Period: 2/1/2021 to 2/28/2021, Fee: \$493,524.00, Expenses: \$11,141.12. Filed by Attorney Juliana Hoffman Objections due by 4/26/2021. (Hoffman, Juliana)
04/05/2021	<u>2161</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2021 to 2/28/2021, Fee: \$187,387.56, Expenses: \$0.00. Filed by Attorney Juliana Hoffman Objections due by 4/26/2021. (Hoffman, Juliana)
04/05/2021	<u>2162</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 110 and 111</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
04/05/2021	<u>2163</u> Certificate of service re: 1) <i>Joint Stipulation as to the Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> ; and 2) <i>Order Approving Joint Stipulation as to Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2139</u> Withdrawal of claim(s): ( <i>Joint Stipulation as to the Withdrawal of Hunter Mountain Investment Trust's Proof of Claim No. 152</i> ) Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2143</u> Order approving joint stipulation as to withdrawal of Hunter Mountain Investment Trust's proof of claim No. 152 (RE: related document(s) <u>2139</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 3/31/2021 (Okafor, M.)). (Kass, Albert)
04/05/2021	<u>2164</u> Hearing held on 4/5/2021. (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation filed by Creditor Committee Official Committee of Unsecured Creditors) (Appearances: P. Montgomery for Unsecured Creditors Committee; A. Russell for J. Dondero; J. Pomeranz and J. Morris for Debtor. Evidentiary hearing. Motion granted. Counsel to submit an order.) (Edmond, Michael) (Entered: 04/06/2021)
04/06/2021	<u>2165</u> Order granting motion to appear pro hac vice adding Zachary F. Proulx for UBS AG London Branch and UBS Securities LLC (related document # <u>2151</u> ) Entered on 4/6/2021. (Okafor, M.)
04/06/2021	<u>2166</u> Order granting motion to appear pro hac vice adding Kathryn K. George for UBS AG London Branch and UBS Securities LLC (related document # <u>2152</u> ) Entered on 4/6/2021. (Okafor, M.)
04/06/2021	<u>2167</u> Clerk's correspondence requesting to amend document from attorney for Interested Party. (RE: related document(s) <u>2149</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s) <u>2083</u> Order on motion to recuse Judge). Appellant Designation due by 04/15/2021. (Attachments: # 1 Exhibit)) Responses due by 4/8/2021. (Whitaker, Sheniqua)
04/06/2021	<u>2168</u> Request for hearing filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc. (RE: related document(s) <u>2081</u> Clerk's correspondence). (Attachments: # <u>1</u> Proposed Order) (Drawhorn, Lauren)
04/06/2021	<u>2169</u> Amended notice of appeal filed by Interested Party James Dondero (RE: related document(s) <u>2149</u> Notice of appeal). (Lang, Michael)
04/06/2021	<u>2170</u> Certificate of service re: 1) <i>Order Granting Debtor's Motion for Leave to File Under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials Under Seal</i> ; and 2) <i>Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials Under Seal</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2146</u> Order Granting Debtor's Motion for Leave to File under Seal the Debtor's Statement with Respect to UBS's Motion for Leave to File Adversary Complaint and Other Materials under Seal)

	Filed by Debtor Highland Capital Management, L.P. (related document <u>2129</u> ) Entered on 4/1/2021. (Okafor, M.), <u>2147</u> Response unopposed to (related document(s): <u>2128</u> Motion for leave to <i>file Adversary Complaint and Other Materials Under Seal</i> filed by Interested Party UBS Securities LLC, Interested Party UBS AG London Branch) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/07/2021	<u>2171</u> Request for transcript regarding a hearing held on 4/5/2021. The requested turn-around time is hourly. (Edmond, Michael)
04/07/2021	<u>2172</u> Certificate of service re: <i>Documents Served on or Before April 3, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2154</u> Reply to (related document(s): <u>1969</u> Objection filed by Interested Party James Dondero) <i>Reply to James D. Dondero's Objection and Response to the Committees Motion for an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation</i> filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2155</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2014</u> Amended notice of appeal, ). (Annable, Zachery). Modified LINKAGE and TEXT on 4/6/2021 (Blanco, J.). filed by Debtor Highland Capital Management, L.P., <u>2156</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1970</u> Notice of appeal). filed by Debtor Highland Capital Management, L.P., <u>2157</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1966</u> Notice of appeal). filed by Debtor Highland Capital Management, L.P., <u>2158</u> Witness and Exhibit List filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. ). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
04/07/2021	<u>2173</u> Certificate of service re: <i>Documents Served on April 5, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2159</u> Amended Witness and Exhibit List <i>for April 5, 2021 Hearing</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2158</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2160</u> Application for compensation <i>Sidley Austin LLP's Sixteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2021 to 2/28/2021, Fee: \$493,524.00, Expenses: \$11,141.12. Filed by Attorney Juliana Hoffman Objections due by 4/26/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2161</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2021 to 2/28/2021, Fee: \$187,387.56, Expenses: \$0.00. Filed by Attorney Juliana Hoffman Objections due by 4/26/2021. filed by Financial Advisor FTI Consulting, Inc., <u>2162</u> Withdrawal of claim(s): <i>(Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 110 and 111)</i> Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/08/2021	<u>2174</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2024</u> Application for compensation – <i>Second Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 1/1/2021 to 1/31/2021, Fee: \$35042.76, Expenses: \$3.80.). (Hesse, Gregory)
04/08/2021	<u>2175</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2025</u> Application for compensation – <i>Third Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 2/1/2021 to 2/28/2021, Fee: \$37092.24, Expenses: \$94.54.). (Hesse, Gregory)

04/08/2021	<p><u>2176</u> Transcript regarding Hearing Held 04/05/2021 (75 pages) RE: Motion to Compel (1878). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 07/7/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 2164 Hearing held on 4/5/2021. (RE: related document(s) <u>1878</u> Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation filed by Creditor Committee Official Committee of Unsecured Creditors) (Appearances: P. Montgomery for Unsecured Creditors Committee; A. Russell for J. Dondero; J. Pomeranz and J. Morris for Debtor. Evidentiary hearing. Motion granted. Counsel to submit an order.)). Transcript to be made available to the public on 07/7/2021. (Rehling, Kathy)</p>
04/08/2021	<p><u>2177</u> Order requiring James D. Dondero to preserve documents and to identify measures taken to ensure document preservation (related document # <u>1878</u>) Entered on 4/8/2021. (Okafor, M.)</p>
04/08/2021	<p><u>2178</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2165</u> Order granting motion to appear pro hac vice adding Zachary F. Proulx for UBS AG London Branch and UBS Securities LLC (related document <u>2151</u>) Entered on 4/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 04/08/2021. (Admin.)</p>
04/08/2021	<p><u>2179</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2166</u> Order granting motion to appear pro hac vice adding Kathryn K. George for UBS AG London Branch and UBS Securities LLC (related document <u>2152</u>) Entered on 4/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 04/08/2021. (Admin.)</p>
04/09/2021	<p><u>2181</u> Certificate of service re: <i>(Supplemental) Notice of Hearing on Debtor's Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2078</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021.). Hearing to be held on 5/3/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u>, filed by Debtor Highland Capital Management, L.P., <u>2125</u> Certificate of service re: 1) <i>Order Granting the Motion for Continuance of Hearing on the Preservation Motion Filed by the Official Committee of Unsecured Creditors</i>; 2) <i>Notice of Hearing on Debtor's Third Omnibus Objection to Certain No Liability Claims</i>; and 3) <i>Supplemental Declaration of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 for Authorization to Employ and Retain Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2076</u> Order granting motion to continue hearing on (related document <u>2064</u>) (related documents Motion to compel an Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation. ) Hearing to be held on 4/5/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1878</u>, Entered on 3/22/2021. (Okafor, M.), <u>2078</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William</p>

	<p>Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broadus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021.). Hearing to be held on 5/3/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u>, filed by Debtor Highland Capital Management, L.P., <u>2079</u> Declaration re: <i>(Supplemental Declaration of Jeffrey N. Pomerantz in Support of Application Pursuant to Section 327(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 for Authorization to Employ and Retain Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession Nunc Pro Tunc to the Petition Date)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>70</u> Application to employ Pachulski Stang Ziehl &amp; Jones LLP as Attorney). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
04/09/2021	<p><u>2182</u> Application for compensation (<i>Fourth Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 1, 2021 through December 31, 2020</i>) for Deloitte Tax LLP, Other Professional, Period: 10/1/2020 to 12/31/2020, Fee: \$153,957.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)</p>
04/09/2021	<p><u>2183</u> Motion to withdraw as attorney (Brian P. Shaw) Filed by Acis Capital Management GP, LLC, Acis Capital Management, L.P., Jennifer G. Terry, Joshua Terry (Attachments: # <u>1</u> Proposed Order) (Shaw, Brian)</p>
04/09/2021	<p><u>2184</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 110 and 111 (RE: related document(s)<u>2162</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 4/9/2021 (Okafor, M.)</p>
04/11/2021	<p><u>2185</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>2184</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 110 and 111 (RE: related document(s)<u>2162</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 4/9/2021 (Okafor, M.)) No. of Notices: 1. Notice Date 04/11/2021. (Admin.)</p>
04/12/2021	<p><u>2186</u> Notice of Appearance and Request for Notice by Jeff P. Prostok filed by Jennifer G. Terry, Joshua Terry. (Prostok, Jeff)</p>
04/13/2021	<p><u>2187</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 8 Number of appellee volumes: 4. Civil Case Number: 3:21-CV-00261-L (Lindsay) (RE: related document(s)<u>1870</u> Notice of appeal Related document(s) <u>1788</u> Order on motion to compromise controversy. (Blanco, J.)</p>
04/13/2021	<p><u>2189</u> Order granting motion to withdraw as attorney (attorney Brian Patrick Shaw terminated). (related document # <u>2183</u>) Entered on 4/13/2021. (Ecker, C.)</p>
04/13/2021	<p><u>2190</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-00261-L (Lindsay) (RE: related document(s)<u>1870</u> Notice of appeal. Related document(s) <u>1788</u> Order on motion to compromise controversy. <u>1889</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust.) (Blanco, J.)</p>
04/13/2021	<p><u>2191</u> Notice of Transmittal 3:21-CV-00261-L (Lindsay) TRANSMITTED 5 SEALED DOCUMENTS (RE: related document(s)<u>2190</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-00261-L (Lindsay) (RE: related document(s)<u>1870</u> Notice of appeal.</p>



	Related document(s) <u>1788</u> Order on motion to compromise controversy. <u>1889</u> Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust.) (Blanco, J.)). (Blanco, J.)
04/13/2021	<u>2192</u> Certificate of service re: 1) <i>Order Requiring James D. Dondero to Preserve Documents and to Identify Measures Taken to Ensure Document Preservation</i> ; 2) <i>Fourth Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 1, 2020 Through December 31, 2020</i> ; and 3) <i>Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 110 and 111</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2177</u> Order requiring James D. Dondero to preserve documents and to identify measures taken to ensure document preservation (related document <u>1878</u> ) Entered on 4/8/2021. (Okafor, M.), <u>2182</u> Application for compensation ( <i>Fourth Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 1, 2021 through December 31, 2020</i> ) for Deloitte Tax LLP, Other Professional, Period: 10/1/2020 to 12/31/2020, Fee: \$153,957.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP, <u>2184</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 110 and 111 (RE: related document(s) <u>2162</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 4/9/2021 (Okafor, M.)). (Kass, Albert)
04/13/2021	<u>2193</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2003</u> Application for compensation ( <i>First Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through July 31, 2020</i> ) for Deloitte Ta). (Annable, Zachery)
04/13/2021	<u>2194</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2004</u> Application for compensation ( <i>Second Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from August 1, 2020 through August 31, 2020</i> ) for Deloitte Tax LLP, O). (Annable, Zachery)
04/13/2021	<u>2195</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2005</u> Application for compensation ( <i>Third Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from September 1, 2020 through September 30, 2020</i> ) for Deloitte Tax L). (Annable, Zachery)
04/14/2021	<u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
04/14/2021	<u>2197</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> )). (Annable, Zachery)
04/14/2021	<u>2198</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> )). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G # <u>8</u> Exhibit H # <u>9</u> Exhibit I # <u>10</u> Exhibit J) (Annable, Zachery)

04/15/2021	<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
04/15/2021	<u>2200</u> Declaration re: ( <i>Declaration of Robert J. Feinstein in Support of Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG, London Branch and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> )). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4) (Annable, Zachery)
04/15/2021	<u>2201</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 5/17/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2199</u> , (Annable, Zachery)
04/15/2021	<u>2203</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2169</u> Amended notice of appeal filed by Interested Party James Dondero (RE: related document(s) <u>2149</u> Notice of appeal).) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
04/15/2021	<u>2204</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2169</u> Amended Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>2083</u> Order on motion to recuse Judge). (Attachments: # 1 Exhibit)) (Whitaker, Sheniqua)
04/15/2021	<u>2205</u> Statement of issues on appeal, filed by Interested Party James Dondero (RE: related document(s) <u>2083</u> Order on motion to recuse Judge). (Lang, Michael)
04/15/2021	<u>2206</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Party James Dondero (RE: related document(s) <u>2169</u> Amended notice of appeal). Appellee designation due by 04/29/2021. (Lang, Michael)
04/15/2021	<u>2207</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Debtor's Third Omnibus Objection to Certain No Liability Claim</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P., <u>2091</u> Certificate of service re: <i>Debtor's Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James

	Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert) Modified on 3/24/2021. filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
04/15/2021	<u>2208</u> INCORRECT EVENT: Attorney to refile. Notice of Transfer of Claim Other Than for Security filed by Creditor Acis Capital Management, L.P.. (Prostok, Jeff) Modified on 4/16/2021 (Ecker, C.).
04/15/2021	<u>2209</u> INCORRECT EVENT: Attorney to refile. Notice of Transfer of Claim Other Than for Security filed by Creditor Acis Capital Management GP, LLC. (Prostok, Jeff) Modified on 4/16/2021 (Ecker, C.).
04/16/2021	<u>2210</u> Clerk's correspondence requesting Amended designation from attorney for appellant. (RE: related document(s) <u>2206</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Party James Dondero (RE: related document(s) <u>2169</u> Amended notice of appeal). Appellee designation due by 04/29/2021.) Responses due by 4/20/2021. (Blanco, J.)
04/16/2021	<u>2211</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Acis Capital Management GP, LLC (Claim No. 23, Amount \$23,000,000.00) To ACMLP Claim, LLC. Filed by Creditor Acis Capital Management GP, LLC. (Prostok, Jeff)
04/16/2021	<u>2212</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Acis Capital Management L.P. (Claim No. 23, Amount \$23,000,000.00) To ACMLP Claim, LLC. Filed by Creditor Acis Capital Management, L.P.. (Prostok, Jeff)
04/16/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28644419, amount \$ 26.00 (re: Doc# <u>2211</u> ). (U.S. Treasury)
04/16/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28644419, amount \$ 26.00 (re: Doc# <u>2212</u> ). (U.S. Treasury)
04/16/2021	<u>2213</u> Amended appellant designation of contents for inclusion in record on appeal filed by Interested Party James Dondero (RE: related document(s) <u>2206</u> Appellant designation). (Lang, Michael)
04/16/2021	<u>2214</u> Notice (Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to February 28, 2021) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
04/16/2021	<u>2215</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: ACMLP Claim, LLC (Claim No. 23, Amount \$23,000,000.00) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. (McIlwain, Brent)
04/16/2021	

	<p>Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims.trclmagt] ( 26.00). Receipt number 28646419, amount \$ 26.00 (re: Doc# <u>2215</u>). (U.S. Treasury)</p>
04/16/2021	<p><u>2216</u> Certificate of service re: <i>1) Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; 2) Debtor's Memorandum of Law in Support of Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; and 3) Declaration of John A. Morris in Support of the Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2196</u> Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC. (<i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>2197</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2196</u> Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC. (<i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>)). filed by Debtor Highland Capital Management, L.P., <u>2198</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2196</u> Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC. (<i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>)). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G # 8 Exhibit H # 9 Exhibit I # 10 Exhibit J) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/18/2021	<p><u>2217</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-00879-K. (RE: related document(s)<u>2169</u> Amended notice of appeal filed by Interested Party James Dondero (RE: related document(s)<u>2149</u> Notice of appeal).) (Whitaker, Sheniqua)</p>
04/19/2021	<p><u>2218</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2124</u> Application for compensation <i>Seventeenth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from February 1, 2021 through February 28, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 2/1/2021 t). (Pomerantz, Jeffrey)</p>
04/19/2021	<p><u>2219</u> Certificate of service re: <i>Customized for Rule 3001(e)(1) or 3001(e)(3)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(1) or 3001(e)(3) [Re Docket No. 1959]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>1959</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 1 Transferors: Action Shred Of Texas (Amount \$3,825.00) To Fair Harbor Capital, LLC. Filed by Creditor Fair Harbor Capital, LLC. filed by Creditor Fair Harbor Capital, LLC). (Kass, Albert)</p>
04/19/2021	<p><u>2220</u> Certificate of service re: <i>1) Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith; 2) Declaration of Robert J. Feinstein in Support of Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG, London Branch and Authorizing Actions Consistent Therewith; and 3) Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. (<i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2200</u> Declaration re: (<i>Declaration of Robert J. Feinstein in Support of Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG, London Branch</i></p>



	<p><i>and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. (<i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i>)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Debtor Highland Capital Management, L.P., <u>2201</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. (<i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 5/17/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2199</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/19/2021	<p><u>2221</u> Application for compensation <i>Fifth Interim Application for Compensation of FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 2/28/2021, Fee: \$838,751.40, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 5/10/2021. (Hoffman, Juliana)</p>
04/20/2021	<p><u>2222</u> Response opposed to (related document(s): <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)</p>
04/20/2021	<p><u>2223</u> Application for compensation <i>Eighteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 3/1/2021 to 3/31/2021, Fee: \$1,277,710.00, Expenses: \$13,687.50. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/11/2021. (Pomerantz, Jeffrey)</p>
04/20/2021	<p><u>2224</u> Notice of Appearance and Request for Notice by Frances Anne Smith filed by Interested Party CPCM, LLC. (Smith, Frances)</p>
04/20/2021	<p><u>2225</u> Response opposed to (related document(s): <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Interested Party CPCM, LLC. (Smith, Frances) Filed by Interested Party CPCM, LLC (related document(s)<u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P.). (Smith, Frances)</p>
04/20/2021	<p><u>2226</u> Motion to continue hearing on (related documents <u>2059</u> Objection to claim) Filed by Interested Party CPCM, LLC (Attachments: # <u>1</u> Proposed Order) (Smith, Frances)</p>
04/20/2021	<p><u>2227</u> Motion for expedited hearing(related documents <u>2226</u> Motion to continue) Filed by Interested Party CPCM, LLC (Attachments: # <u>1</u> Proposed Order) (Smith, Frances)</p>
04/20/2021	<p><u>2228</u> Certificate of service re: <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to February 28, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2214</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October</i></p>

	<p>16, 2019 to February 28, 2021) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
04/20/2021	<p><u>2229</u> Motion to borrow/incur debt (<i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
04/20/2021	<p><u>2230</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC. (<i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 5/18/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2196</u>. (Annable, Zachery)</p>
04/21/2021	<p><u>2231</u> Certificate of service re: Notice of Appearance, Preliminary Response to Debtors Third Omnibus Objection to Certain No Liability Claims, Motion to Continue Hearing on Debtors Third Omnibus Objection to Certain Liability Claims, and Motion for Setting and Request for Expedited Hearing filed by Interested Party CPCMC, LLC (RE: related document(s) <u>2224</u> Notice of appearance and request for notice, <u>2225</u> Response to objection to claim, <u>2226</u> Motion to continue hearing on (related documents <u>2059</u> Objection to claim), <u>2227</u> Motion for expedited hearing (related documents <u>2226</u> Motion to continue) ). (Smith, Frances)</p>
04/21/2021	<p><u>2232</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt (<i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 5/17/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u>. (Annable, Zachery)</p>
04/21/2021	<p><u>2233</u> Application for compensation <i>Sidley Austin LLP's Fifth Interim Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 2/28/2021, Fee: \$1,957,009.95, Expenses: \$23,156.48. Filed by Attorney Juliana Hoffman Objections due by 5/12/2021. (Hoffman, Juliana)</p>
04/22/2021	<p><u>2234</u> Notice of hearing (<i>Notice of Status Conference</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). Status Conference to be held on 5/7/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a>. (Annable, Zachery)</p>
04/23/2021	<p><u>2235</u> INCORRECT EVENT: Attorney to refile. Motion for contempt against The Charitable DAF Fund, L.P.; CLO Holdco, Ltd.; Persons Authorizing The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. to file the Seery Motion; and Sbaiti &amp; Company PLLC regarding Violation of the (i) Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course; and (ii) Order Approving Debtor's Motion under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery) Modified</p>

	on 4/26/2021 (Ecker, C.).
04/23/2021	<u>2236</u> Brief in support filed by Debtor Highland Capital Management, L.P. Related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P.. Modified to add link on 4/27/2021 (Ecker, C.).
04/23/2021	<u>2237</u> Declaration re: ( <i>Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P. Related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P.. Modified to add link on 4/27/2021 (Ecker, C.).
04/23/2021	<u>2239</u> Certificate of service re: <i>Documents Served on April 20, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2221</u> Application for compensation <i>Fifth Interim Application for Compensation of FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 2/28/2021, Fee: \$838,751.40, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 5/10/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2223</u> Application for compensation <i>Eighteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 3/1/2021 to 3/31/2021, Fee: \$1,277,710.00, Expenses: \$13,687.50. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 5/11/2021. filed by Debtor Highland Capital Management, L.P., <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2230</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 5/18/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2196</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/23/2021	<u>2240</u> Certificate of service re: <i>1) Notice of Hearing; and 2) Fifth Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from December 1, 2020 Through and Including February 28, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2232</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 5/17/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u> , filed by Debtor Highland Capital Management, L.P., <u>2233</u> Application for compensation <i>Sidley Austin LLP's Fifth Interim Application for Compensation for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 2/28/2021, Fee: \$1,957,009.95, Expenses: \$23,156.48.</i> Filed by Attorney Juliana Hoffman Objections due by 5/12/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
04/23/2021	<u>2241</u> INCORRECT EVENT: See # <u>2248</u> for correction. Notice of Motion for Modification of Order Authorizing Retention of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE:

	related document(s) <u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.). (Attachments: # <u>1</u> Exhibit 1 Complaint # <u>2</u> Exhibit 2 Motion for Leave to File First Amended Complaint) (Sbaiti, Mazin) Modified on 4/27/2021 (Ecker, C.).
04/23/2021	<u>2242</u> DUPLICATE ENTRY: See # <u>2241</u> . Notice of Motion for Modification of Order Authorizing Retention of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>854</u> Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.). (Attachments: # <u>1</u> Exhibit 1 Complaint # <u>2</u> Exhibit 2 Motion for Leave to File First Amended Complaint) (Sbaiti, Mazin) Modified on 4/26/2021 (Ecker, C.).
04/23/2021	<u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd. , The Charitable DAF Fund, L.P. (Ecker, C.) (Entered: 04/27/2021)
04/24/2021	<u>2243</u> Motion to compromise controversy with Siepe, LLC and Siepe Services, LLC. (Motion of the Debtor for Entry of an Order Approving Settlement with Siepe, LLC and Siepe Services, LLC [Claim Nos. 38, 39] and Authorizing Actions Consistent Therewith) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/17/2021. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Settlement Agreement) (Annable, Zachery)
04/26/2021	<u>2244</u> Notice of Filing of Monthly Staffing Report by Development Specialists Inc. for the Period from February 1, 2021 Through February 28, 2021 filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
04/26/2021	<u>2245</u> Certificate of service re: Notice of Status Conference Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2234</u> Notice of hearing (Notice of Status Conference) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # <u>1</u> Service List)). Status Conference to be held on 5/7/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> . filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/26/2021	<u>2246</u> Omnibus Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47. Filed by Attorney Juliana Hoffman Objections due by 1/25/2021., <u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1,620,489.60, Expenses: \$8,974.00. Filed by Attorney Juliana Hoffman Objections due by 2/17/2021., <u>2221</u> Application for compensation <i>Fifth Interim Application for Compensation of FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 2/28/2021, Fee: \$838,751.40, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 5/10/2021., <u>2233</u> Application for compensation <i>Sidley Austin LLP's Fifth Interim Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 2/28/2021, Fee: \$1,957,009.95, Expenses: \$23,156.48. Filed by Attorney Juliana Hoffman Objections due by 5/12/2021.). Hearing to be held on 5/18/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1853</u> and for <u>1655</u> and for <u>2233</u> and for <u>2221</u> , (Hoffman, Juliana)
04/27/2021	<u>2247</u> Motion for order to show cause (Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating



	<i>Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
04/27/2021	<u>2249</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2247</u> , (Annable, Zachery)
04/27/2021	<u>2250</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2160</u> Application for compensation <i>Sidley Austin LLP's Sixteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 2/1/2021 to 2/28/2021, Fee: \$). (Hoffman, Juliana)
04/27/2021	<u>2251</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2161</u> Application for compensation <i>Sixteenth Monthly Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 2/1/2021 to 2/28/2021, Fee: \$187,387.56, Expenses: \$0.00.). (Hoffman, Juliana)
04/27/2021	<u>2252</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2247</u> , (Annable, Zachery)
04/28/2021	<u>2253</u> Certificate of service re: 1) <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not be Held in Civil Contempt for Violating Two Court Orders</i> ; 2) <i>Debtor's Memorandum of Law in Support of Motion for an Order Requiring the Violators to Show Cause Why They Should Not be Held in Civil Contempt for Violating Two Court Orders</i> ; and 3) <i>Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not be Held in Civil Contempt for Violating Two Court Orders</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2235</u> INCORRECT EVENT: Attorney to refile. Motion for contempt against The Charitable DAF Fund, L.P.; CLO Holdco, Ltd.; Persons Authorizing The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. to file the Seery Motion; and Sbaiti & Company PLLC regarding Violation of the (i) Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course; and (ii) Order Approving Debtor's Motion under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery) Modified on 4/26/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>2236</u> Brief in support filed by Debtor Highland Capital Management, L.P. Related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P.. Modified to add link on 4/27/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>2237</u> Declaration re: ( <i>Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P. Related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P.. Modified to add link on 4/27/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/28/2021	<u>2254</u> Notice of hearing filed by Plaintiff CLO Holdco, Ltd. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by

	Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2248</u> , (Sbaiti, Mazin)
04/29/2021	<u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document # <u>2247</u> ) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Any response should be filed by May 21, 2021. Entered on 4/29/2021. (Okafor, M.)
04/29/2021	<u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. Filed by Get Good Trust, The Dugaboy Investment Trust Objections due by 5/20/2021. (Draper, Douglas)
04/29/2021	<u>2257</u> Certificate of service re: filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. ). (Attachments: # <u>1</u> Exhibit – Matrix) (Draper, Douglas)
04/29/2021	<u>2258</u> Certificate of service re: <i>1) Motion of the Debtor for Entry of an Order Approving Settlement with Siepe, LLC and Siepe Services, LLC [Claim Nos. 38, 39] and Authorizing Actions Consistent Therewith; and 2) Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from February 1, 2021 Through February 28, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2243</u> Motion to compromise controversy with Siepe, LLC and Siepe Services, LLC. ( <i>Motion of the Debtor for Entry of an Order Approving Settlement with Siepe, LLC and Siepe Services, LLC [Claim Nos. 38, 39] and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. Objections due by 5/17/2021. (Attachments: # <u>1</u> Exhibit A—Proposed Order # <u>2</u> Exhibit B—Settlement Agreement) filed by Debtor Highland Capital Management, L.P., <u>2244</u> Notice of Filing of Monthly Staffing Report by Development Specialists Inc. for the Period from February 1, 2021 Through February 28, 2021 filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/29/2021	<u>2259</u> Certificate of service re: <i>1) Notice of Hearing on the Fourth and Fifth Interim Applications for Compensation and Reimbursement of Expenses; and 2) Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2246</u> Omnibus Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>1655</u> Application for compensation <i>Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, Fee: \$710,280.45, Expenses: \$1,479.47. Filed by Attorney Juliana Hoffman Objections due by 1/25/2021., <u>1853</u> Application for compensation <i>Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, Fee: \$1,620,489.60, Expenses: \$8,974.00. Filed by Attorney Juliana Hoffman Objections due by 2/17/2021., <u>2221</u> Application for compensation <i>Fifth Interim Application for Compensation of FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 2/28/2021, Fee: \$838,751.40, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 5/10/2021., <u>2233</u> Application for compensation <i>Sidley Austin LLP's Fifth Interim Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 2/28/2021, Fee: \$1,957,009.95, Expenses: \$23,156.48. Filed by Attorney Juliana Hoffman Objections due by 5/12/2021.). Hearing to be held on 5/18/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>1853</u> and for <u>1655</u> and for <u>2233</u> and for <u>2221</u> , filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2252</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2247</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

04/30/2021	<u>2260</u> Application for compensation <i>Seventeenth Monthly Application for Compensation for FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 3/1/2021 to 3/31/2021, Fee: \$96,823.80, Expenses: \$0.00. Filed by Attorney Juliana Hoffman Objections due by 5/21/2021. (Hoffman, Juliana)
04/30/2021	<u>2261</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Redeemer Committee of the Highland Crusader Fund (Claim No. 72, Amount \$137,696,610.00) To Jessup Holdings LLC. Filed by Creditor Jessup Holdings LLC. (Leen, Edward)
04/30/2021	<u>2262</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Highland Crusader Offshore Partners, L.P., et al. (Claim No. 81, Amount \$50,000.00) To Jessup Holdings LLC. Filed by Creditor Jessup Holdings LLC. (Leen, Edward)
04/30/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28681233, amount \$ 26.00 (re: Doc# <u>2261</u> ). (U.S. Treasury)
04/30/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28681233, amount \$ 26.00 (re: Doc# <u>2262</u> ). (U.S. Treasury)
04/30/2021	<u>2263</u> Assignment/Transfer of Claim. Fee Amount \$156. Transfer Agreement 3001 (e) 2 Transferors: HarbourVest 2017 Global Fund L.P. (Claim No. 143); HarbourVest 2017 Global AIF L.P. (Claim No. 147); HarbourVest Dover Street IX Investment L.P. (Claim No. 150); HV International VIII Secondary L.P. (Claim No. 153); HarbourVest Skew Base AIF L.P. (Claim No. 154); HarbourVest Partners L.P. (Claim No. 149) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. (McIlwain, Brent)
04/30/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 156.00). Receipt number 28682148, amount \$ 156.00 (re: Doc# <u>2263</u> ). (U.S. Treasury)
04/30/2021	<u>2264</u> Certificate of service re: <i>(Supplemental) Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>1948</u> <i>Notice (Notice of (I) Confirmation Date and (II) Bar Date for Filing Rejection Claims)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.)). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
04/30/2021	<u>2265</u> Certificate of service re: <i>Order Requiring the Violators to Show Cause Why They Should Not be Held in Civil Contempt for Violating Two Court Orders</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u> ) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Any response should be filed by May 21, 2021. Entered on 4/29/2021. (Okafor, M.)). (Kass, Albert)
05/03/2021	<u>2266</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Sahan Abayarathna To NexPoint Advisors LP. Filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)
05/03/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 26.00). Receipt number 28684014, amount \$ 26.00 (re: Doc# <u>2266</u> ). (U.S. Treasury)

05/03/2021	<p>2267 Status conference held on 5/3/2021., Trial set (RE: related document(s)<u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahana Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021.) Trial date set for 9/21/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Appearances: J. Pomeranz for Debtor; F. Smith for CPMC LLC, purchaser of certain employee claims; J. Vasek for NextPoint, purchaser of certain other employee claims; M. Clemente for UCC; J. Dondero. Nonevidentiary status conference. Matter continued to September 13, 2021 at 1:30 for a Trial Docket Call with evidentiary trial to be held on September 21, 2021 at 9:30 am. Order to be uploaded memorializing this. (Ellison, T.)</p>
05/03/2021	<p>2269 INCORRECT ENTRY: DUPLICATE ENTRY. Hearing held on 5/3/2021. (RE: related document(s)<u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahana Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz for Debtor; F. Smith for CPMC LLC, purchaser of certain employee claims; J. Vasek for NextPoint, purchaser of certain other employee claims; M. Clemente for UCC; J. Dondero. Nonevidentiary status conference. Matter continued to September 13, 2021 at 1:30 for a Trial Docket Call with evidentiary trial to be held on September 21, 2021 at 9:30 am. Order to be uploaded memorializing this.) (Edmond, Michael) Modified on 5/4/2021 (Tello, Chris). (Entered: 05/04/2021)</p>
05/04/2021	<p><u>2268</u> Objection to (related document(s): <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. (<i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P.)<u>Limited Preliminary Objection</u> filed by Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)</p>
05/04/2021	<p><u>2270</u> PDF with attached Audio File. Court Date &amp; Time [05/03/2021 01:33:52 PM]. File Size [ 3670 KB ]. Run Time [ 00:15:40 ]. (admin).</p>
05/04/2021	<p><u>2271</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2133</u> Objection to claim). (Annable, Zachery)</p>
05/04/2021	<p><u>2272</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2182</u> Application for compensation (<i>Fourth Combined Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 1, 2021 through December 31, 2020</i>) for Deloitte). (Annable, Zachery)</p>
05/04/2021	<p><u>2296</u> Order from circuit court re: appeal on appellate case number: 21-10449, (RE: related document(s)<u>1957</u> Notice of appeal filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P.). IT IS ORDERED that the</p>



	motion of NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. for leave to appeal under 28 U.S.C. § 158(d) is GRANTED. Civil Case 3:21-cv-00538-N. Entered on 5/4/2021 (Whitaker, Sheniqua) (Entered: 05/12/2021)
05/05/2021	<u>2273</u> Debtor-in-possession quarterly operating report (post-confirmation) for filing period January 1, 2021 to March 31, 2021 filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/05/2021	<u>2274</u> Objection to (related document(s): <u>1826</u> Application for administrative expenses filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/05/2021	<u>2275</u> Declaration re: ( <i>Declaration of John A. Morris in Support of Debtor's Objection to Application for Administrative Claim of Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2274</u> Objection). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)
05/05/2021	<u>2276</u> Certificate of service re: <i>Seventeenth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from March 1, 2021 to and Including March 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2260</u> Application for compensation <i>Seventeenth Monthly Application for Compensation for FTI Consulting, Inc. for Official Committee of Unsecured Creditors, Financial Advisor, Period: 3/1/2021 to 3/31/2021, Fee: \$96,823.80, Expenses: \$0.00.</i> Filed by Attorney Juliana Hoffman Objections due by 5/21/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
05/06/2021	<u>2277</u> Notice ( <i>Notice of Cancellation of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). (Annable, Zachery)
05/06/2021	<u>2278</u> Response opposed to (related document(s): <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) filed by Debtor Highland Capital Management, L.P.) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Attachments: # <u>1</u> Proposed Order) (Drawhorn, Lauren)
05/06/2021	<u>2279</u> Brief in opposition filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ), <u>2278</u> Response). (Drawhorn, Lauren)
05/06/2021	<u>2280</u> Motion to file document under seal. <i>Appendix in Support of Response to Motion to Disqualify</i> Filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (Attachments: # <u>1</u> Exhibit A – Proposed Order # <u>2</u> Exhibit B – Appendix) (Drawhorn, Lauren)
05/07/2021	<u>2281</u> Notice of Appearance and Request for Notice by Brant C. Martin filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Martin, Brant)
05/07/2021	<u>2282</u> Motion to continue hearing on (related documents <u>2229</u> Motion to borrow/incur debt) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
05/07/2021	

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	<u>2283</u> Application for compensation ( <i>Eleventh Monthly Application for Compensation and Reimbursement of Hayward PLLC as Local Counsel to the Debtor for the Period from October 1, 2020 through November 30, 2020</i> ) for Hayward PLLC, Debtor's Attorney, Period: 10/1/2020 to 11/30/2020, Fee: \$69,327.00, Expenses: \$6,478.70. Filed by Attorney Hayward PLLC (Annable, Zachery)
05/07/2021	<u>2284</u> Order granting motion to continue hearing on (related document # <u>2282</u> ) (related documents Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Hearing to be held on 6/1/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u>, Entered on 5/7/2021. (Okafor, M.)</i> )
05/10/2021	<u>2285</u> Notice of change of address filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Clubok, Andrew)
05/10/2021	<u>2286</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/1/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u> , (Annable, Zachery)
05/10/2021	<u>2287</u> Certificate of service re: 1) <i>Debtor's Objection to Application for Administrative Claim of Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.</i> ; and 2) <i>Declaration of John A. Morris in Support of Debtor's Objection to Application for Administrative Claim of Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2274</u> Objection to (related document(s): <u>1826</u> Application for administrative expenses filed by Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2275</u> Declaration re: ( <i>Declaration of John A. Morris in Support of Debtor's Objection to Application for Administrative Claim of Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2274</u> Objection). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/11/2021	<u>2288</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2221</u> Application for compensation <i>Fifth Interim Application for Compensation of FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 2/28/2021, Fee: \$838,751.40, Expenses: \$0.). (Hoffman, Juliana)
05/11/2021	<u>2289</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/11/2021	<u>2290</u> Notice to take deposition of Highland Capital Management, L.P. filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
05/11/2021	<u>2291</u> Notice <i>Notice of Return of Service</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2290</u> Notice to take deposition of Highland Capital Management, L.P. filed by Creditor The Dugaboy Investment Trust.). (Draper, Douglas)
05/11/2021	<u>2292</u> Certificate of service re: <i>Notice of Cancellation of Status Conference</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2277</u> Notice ( <i>Notice of Cancellation of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P.

	(RE: related document(s) <u>1826</u> Application for administrative expenses Filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (Attachments: # 1 Service List)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/12/2021	<u>2293</u> Supplemental Objection to (related document(s): <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P.)with <i>Certificate of Service</i> filed by Creditor The Dugaboy Investment Trust. (Attachments: # <u>1</u> Exhibit A) (Draper, Douglas)
05/12/2021	<u>2294</u> Reply to (related document(s): <u>2278</u> Response filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/12/2021	<u>2295</u> Objection to (related document(s): <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Assink, Bryan)
05/12/2021	<u>2297</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 5/21/2021 at 09:00 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2199</u> , (Annable, Zachery)
05/12/2021	<u>2298</u> Certificate of service re: <i>1) Motion to Continue Hearing on Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter Into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief; 2) Eleventh Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from October 1, 2020 Through November 30, 2020; and 3) Order Continuing Hearing on Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter Into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2282</u> Motion to continue hearing on (related documents <u>2229</u> Motion to borrow/incur debt) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2283</u> Application for compensation ( <i>Eleventh Monthly Application for Compensation and Reimbursement of Hayward PLLC as Local Counsel to the Debtor for the Period from October 1, 2020 through November 30, 2020</i> ) for Hayward PLLC, Debtor's Attorney, Period: 10/1/2020 to 11/30/2020, Fee: \$69,327.00, Expenses: \$6,478.70. Filed by Attorney Hayward PLLC, <u>2284</u> Order granting motion to continue hearing on (related document <u>2282</u> ) (related documents Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Hearing to be held on 6/1/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u>, Entered on 5/7/2021. (Okafor, M.)). (Kass, Albert)</i>
05/13/2021	<u>2299</u> Clerk's notice of fees due in the amount of \$207.00 (Filing Fee for Circuit Appeal) See Document 2296. filed by Interested Party Highland Capital Management Fund Advisors, L.P., and Interested Party NexPoint Advisors, L.P.. (RE: related document(s) <u>1957</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/15/2021. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)

05/13/2021	<u>2300</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2223</u> Application for compensation <i>Eighteenth Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i> for Jeffrey). (Pomerantz, Jeffrey)
05/13/2021	<u>2301</u> Certificate of service re: <i>Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2286</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/1/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/13/2021	<u>2302</u> Certificate of service re: <i>Notice of Deposition</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2289</u> Notice to take deposition of James P. Seery, Jr. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/13/2021	<u>2303</u> Certificate of service re: <i>[Customized for Rule 3001(e)(2) or 3001(e)(4)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket Nos. 2261 and 2262]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2261</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Redeemer Committee of the Highland Crusader Fund (Claim No. 72, Amount \$137,696,610.00) To Jessup Holdings LLC. Filed by Creditor Jessup Holdings LLC. filed by Creditor Jessup Holdings LLC, <u>2262</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Highland Crusader Offshore Partners, L.P., et al. (Claim No. 81, Amount \$50,000.00) To Jessup Holdings LLC. Filed by Creditor Jessup Holdings LLC. filed by Creditor Jessup Holdings LLC). (Kass, Albert)
05/13/2021	Receipt Number 338881, Fee Amount \$207.00 (RE: related document(s) <u>2299</u> Clerk's notice of fees due in the amount of \$207.00 (Filing Fee for Circuit Appeal) See Document 2296. filed by Interested Party Highland Capital Management Fund Advisors, L.P., and Interested Party NexPoint Advisors, L.P.. (RE: related document(s)1957 Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s)1943 Order confirming chapter 11 plan). Appellant Designation due by 03/15/2021. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)) (Floyd, K) (Entered: 05/14/2021)
05/14/2021	<u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
05/14/2021	<u>2305</u> Witness and Exhibit List filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> )). (Sosland, Martin)
05/14/2021	<u>2306</u> Application to employ Teneo Capital, LLC as Litigation Advisor to the Official Committee of Unsecured Creditors as Other Professional Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit) (Hoffman, Juliana)
05/14/2021	<u>2307</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and



	Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2304</u> , (Annable, Zachery)
05/14/2021	<u>2308</u> Omnibus Reply to (related document(s): <u>2268</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>2293</u> Objection filed by Creditor The Dugaboy Investment Trust, <u>2295</u> Objection filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8) (Annable, Zachery)
05/14/2021	<u>2309</u> Response to show cause order (related document(s): <u>2255</u> Order on motion to show cause) filed by Respondent Mark Patrick. (Phillips, Louis)
05/14/2021	<u>2310</u> Reply to (related document(s): <u>2268</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>2293</u> Objection filed by Creditor The Dugaboy Investment Trust, <u>2295</u> Objection filed by Interested Party James Dondero) filed by Interested Parties UBS AG London Branch, UBS Securities LLC. (Sosland, Martin)
05/14/2021	<u>2311</u> Response opposed to (related document(s): <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) filed by Plaintiff The Charitable DAF Fund, L.P., Plaintiff CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/14/2021	<u>2312</u> Objection to (related document(s): <u>2247</u> Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P., <u>2255</u> Order on motion to show cause. MODIFIED to correct linkage on 5/17/2021 (Ecker, C.).
05/14/2021	<u>2313</u> Response to show cause order (related document(s): <u>2255</u> Order on motion to show cause) filed by Plaintiff The Charitable DAF Fund, L.P.. (Attachments: # <u>1</u> Appendix) (Sbaiti, Mazin)
05/14/2021	<u>2314</u> Witness and Exhibit List <i>with Certificate of Service</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> )). (Draper, Douglas)
05/14/2021	<u>2315</u> Joinder by to Debtors Objection to Motion for Modification of Order Authorizing Appointment of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2311</u> Response). (Hoffman, Juliana)
05/14/2021	<u>2316</u> Motion to withdraw as attorney (John J. Kane, Brian W. Clark and the law firm of Kane Russell Coleman Logan PC) Filed by Creditor CLO Holdco, Ltd. (Attachments: # <u>1</u> Proposed Order) (Kane, John)
05/17/2021	<u>2317</u> Agreed Order granting motion to continue hearing on (related document <u>2226</u> ) (related documents Objection to claim) Hearing to be held on 9/21/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , Entered on 5/17/2021. (Okafor, M.) Modified text on 5/17/2021 (Okafor, M.).
05/17/2021	<u>2318</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2233</u> Application for compensation <i>Sidley Austin LLP's Fifth Interim Application for Compensation</i> for Official Committee of

	Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 2/28/2021, Fee: \$1,957,009.95, Expenses: \$23,). (Hoffman, Juliana)
05/17/2021	<u>2319</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on May 18, 2021 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/17/2021	<u>2320</u> Certificate of service re: <i>1) Debtor's Preliminary Reply in Further Support of Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; and 2) Notice of Change of Hearing Date</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2294</u> Reply to (related document(s): <u>2278</u> Response filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2297</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 5/21/2021 at 09:00 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2199</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/18/2021	<u>2321</u> Notice ( <i>Notice of Cancellation of Status Conference</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). (Annable, Zachery)
05/18/2021	<u>2322</u> Notice of Appearance and Request for Notice <i>for BH Equities LLC</i> by Casey William Doherty Jr. filed by Creditor BHH Equities LLC. (Doherty, Casey)
05/18/2021	<u>2323</u> Response opposed to (related document(s): <u>906</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) filed by Creditor BHH Equities LLC. (Doherty, Casey)
05/18/2021	<u>2324</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2243</u> Motion to compromise controversy with Siepe, LLC and Siepe Services, LLC. ( <i>Motion of the Debtor for Entry of an Order Approving Settlement with Siepe, LLC and Siepe Services, LLC [Claim Nos. 38, 39] and Authorizing Actions Consistent Therewith</i> )
05/18/2021	<u>2325</u> Order granting fifth interim fee application for compensation (related document # <u>2221</u> ) granting for FTI Consulting, Inc. Financial Advisor for the Official Committee of Unsecured Creditors, fees awarded: \$838751.40, expenses awarded: \$0.00 Entered on 5/18/2021. (Okafor, M.)
05/18/2021	<u>2326</u> Order granting fourth interim application for compensation (related document # <u>1655</u> ) granting for FTI Consulting, Inc., Financial Advisor for the Official Committee of Unsecured Creditors, fees awarded: \$710280.45, expenses awarded: \$1479.47 Entered on 5/18/2021. (Okafor, M.)
05/18/2021	<u>2327</u> Order granting fifth interim application for compensation (related document # <u>2233</u> ) granting for Sidley Austin LLP, Attorneys for Official Committee of Unsecured Creditors, fees awarded: \$1957009.95, expenses awarded: \$23156.48 Entered on 5/18/2021. (Okafor, M.)
05/18/2021	<u>2328</u> Application for compensation <i>Sidley Austin LLP's Seventeenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty,

	Period: 3/1/2021 to 3/31/2021, Fee: \$371,842.20, Expenses: \$6,279.02. Filed by Attorney Juliana Hoffman Objections due by 6/8/2021. (Hoffman, Juliana)
05/18/2021	<u>2329</u> Order granting fourth interim application for compensation (related document # <u>1853</u> ) granting Sidley Austin LLP, Attorneys for Official Committee of Unsecured Creditors, fees awarded: \$1620489.60, expenses awarded: \$8974.00 Entered on 5/18/2021. (Okafor, M.)
05/18/2021	<u>2330</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> )). (Attachments: # <u>1</u> Dondero Ex. A # <u>2</u> Dondero Ex. B # <u>3</u> Dondero Ex. C # <u>4</u> Dondero Ex. D # <u>5</u> Dondero Ex. E # <u>6</u> Dondero Ex. F # <u>7</u> Dondero Ex. G # <u>8</u> Dondero Ex. H # <u>9</u> Dondero Ex. I # <u>10</u> Dondero Ex. J # <u>11</u> Dondero Ex. K # <u>12</u> Dondero Ex. L # <u>13</u> Dondero Ex. M # <u>14</u> Dondero Ex. N # <u>15</u> Dondero Ex. O # <u>16</u> Dondero Ex. P # <u>17</u> Dondero Ex. Q # <u>18</u> Dondero Ex. R # <u>19</u> Dondero Ex. S # <u>20</u> Dondero Ex. T # <u>21</u> Dondero Ex. U # <u>22</u> Dondero Ex. V # <u>23</u> Dondero Ex. W # <u>24</u> Dondero Ex. X) (Assink, Bryan)
05/18/2021	<u>2331</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. ( <i>Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith</i> )). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> Exhibit 42 # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44 # <u>45</u> Exhibit 45 # <u>46</u> Exhibit 46 # <u>47</u> Exhibit 47 # <u>48</u> Exhibit 48 # <u>49</u> Exhibit 49 # <u>50</u> Exhibit 50 # <u>51</u> Exhibit 51 # <u>52</u> Exhibit 52 # <u>53</u> Exhibit 53 # <u>54</u> Exhibit 54 # <u>55</u> Exhibit 55 # <u>56</u> Exhibit 56 # <u>57</u> Exhibit 57 # <u>58</u> Exhibit 58 # <u>59</u> Exhibit 59 # <u>60</u> Exhibit 60 # <u>61</u> Exhibit 61 # <u>62</u> Exhibit 62 # <u>63</u> Exhibit 63 # <u>64</u> Exhibit 64 # <u>65</u> Exhibit 65 # <u>66</u> Exhibit 66 # <u>67</u> Exhibit 67 # <u>68</u> Exhibit 68 # <u>69</u> Exhibit 69 # <u>70</u> Exhibit 70 # <u>71</u> Exhibit 71 # <u>72</u> Exhibit 72 # <u>73</u> Exhibit 73) (Annable, Zachery)
05/18/2021	<u>2360</u> Hearing held on 5/18/2021. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. (Debtor's Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief) filed by Debtor Highland Capital Management, L.P., (Matter continued) (Edmond, Michael) (Entered: 05/24/2021)
05/18/2021	Hearing NOT held on 5/18/2021. (RE: related document(s) <u>2221</u> Application for compensation Fifth Interim Application for Compensation of FTI Consulting, Inc., for Official Committee of Unsecured Creditors, Financial Advisor, Period: 12/1/2020 to 2/28/2021, filed by Attorney Juliana Hoffman). (**CNO filed; order signed in chambers**) (Edmond, Michael) (Entered: 05/24/2021)
05/18/2021	Hearing NOT held on 5/18/2021. (RE: related document(s) <u>1853</u> Application for compensation Sidley Austin LLP's Fourth Interim Application for Compensation and Reimbursement of Expenses for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 9/1/2020 to 11/30/2020, filed by Attorney Juliana Hoffman) (**CNO filed; order signed in chambers**) (Edmond, Michael) (Entered: 05/24/2021)
05/18/2021	Hearing NOT held on 5/18/2021. (RE: related document(s) <u>1655</u> Application for compensation Fourth Interim Application for Compensation and Reimbursement of Expenses for FTI Consulting, Inc., Financial Advisor, Period: 9/1/2020 to 11/30/2020, filed by Attorney Juliana Hoffman) (**CNO filed; order signed in chambers**) (Edmond,

	Michael) (Entered: 05/24/2021)
05/18/2021	Hearing NOT held on 5/18/2021. (RE: related document(s) <u>2233</u> Application for compensation Sidley Austin LLP's Fifth Interim Application for Compensation for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 12/1/2020 to 2/28/2021, filed by Attorney Juliana Hoffman) (**CNO filed; order signed in chambers***) (Edmond, Michael) (Entered: 05/24/2021)
05/19/2021	<u>2332</u> Notice to take deposition of Mark Patrick filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/19/2021	<u>2333</u> Notice to take deposition of CLO Holdco, Ltd. and Charitable DAF Fund, L.P. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/19/2021	<u>2334</u> Withdrawal of claim(s): #93 Filed by Interested Party Integrated Financial Associates, Inc.. (Attachments: # <u>1</u> Exhibit Ex. 1 – POC #93 Integrated Financial Associates) (Bryant, M.)
05/19/2021	<u>2335</u> Notice ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 165, 168, and 169</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/19/2021	<u>2336</u> Amended Witness and Exhibit List for May 21, 2021 Hearing filed by Interested Parties UBS AG London Branch, UBS Securities LLC (RE: related document(s) <u>2305</u> List (witness/exhibit/generic)). (Sosland, Martin)
05/19/2021	<u>2337</u> Certificate of service re: <i>Documents Served on May 14, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2306</u> Application to employ Teneo Capital, LLC as Litigation Advisor to the Official Committee of Unsecured Creditors as Other Professional Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2307</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2304</u> , filed by Debtor Highland Capital Management, L.P., <u>2308</u> Omnibus Reply to (related document(s): <u>2268</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>2293</u> Objection filed by Creditor The Dugaboy Investment Trust, <u>2295</u> Objection filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8) filed by Debtor Highland Capital Management, L.P., <u>2311</u> Response opposed to (related document(s): <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) filed by Plaintiff The Charitable DAF Fund, L.P., Plaintiff CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2315</u> Joinder by <i>to Debtors Objection to Motion for Modification of Order Authorizing Appointment of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2311</u> Response). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
05/19/2021	<u>2338</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2317</u> Agreed Order granting motion to continue hearing on (related document <u>2226</u> ) (related documents Objection to claim) Hearing to be held on 9/21/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , Entered on 5/17/2021. (Okafor, M.) Modified text on 5/17/2021 (Okafor, M.)) No. of Notices: 2. Notice Date 05/19/2021.

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	(Admin.)
05/20/2021	<u>2339</u> Amended Exhibit List <i>Supplemental Exhibit List for the May 12, 2021 Hearing with Certificate of Service</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2314</u> List (witness/exhibit/generic)). (Draper, Douglas)
05/20/2021	<u>2340</u> Motion to continue hearing on (related documents <u>2229</u> Motion to borrow/incur debt) ( <i>Motion to Further Continue Hearing on Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
05/20/2021	<u>2341</u> Response opposed to (related document(s): <u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/20/2021	<u>2342</u> Amended Exhibit List <i>Supplemental Exhibit List</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2339</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29) (Draper, Douglas)
05/20/2021	<u>2343</u> Joinder by <i>Debtors Opposition to Motion to Compel</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2341</u> Response). (Hoffman, Juliana)
05/20/2021	<u>2344</u> Certificate of service re: <i>Notice of Agenda of Matters Scheduled for Hearing on May 18, 2021 at 9:30 a.m. (Central Time)</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2319</u> <i>Notice (Notice of Agenda of Matters Scheduled for Hearing on May 18, 2021 at 9:30 a.m. (Central Time))</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/21/2021	<u>2345</u> Agreed scheduling order with respect to Debtors Objection to Application for Administrative Claim of Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (RE: related document(s) <u>2274</u> Objection filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 9/28/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2274</u> , Entered on 5/21/2021 (Okafor, M.)
05/21/2021	<u>2346</u> Order granting motion to withdraw as attorney for CLO Holdco, LTD (attorney John J. Kane terminated). (related document # <u>2316</u> ) Entered on 5/21/2021. (Okafor, M.)
05/21/2021	<u>2347</u> Reply to (related document(s): <u>2311</u> Response filed by Debtor Highland Capital Management, L.P.) filed by Creditor The Charitable DAF Fund, L.P.. (Sbaiti, Mazin)
05/21/2021	<u>2348</u> PDF with attached Audio File. Court Date & Time [05/21/2021 08:57:33 AM]. File Size [ 73177 KB ]. Run Time [ 05:13:15 ]. (admin).
05/21/2021	<u>2349</u> Omnibus Reply to (related document(s): <u>2309</u> Response to show cause order filed by Respondent Mark Patrick, <u>2312</u> Objection filed by Interested Party James Dondero, <u>2313</u> Response to show cause order filed by Creditor The Charitable DAF Fund, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/21/2021	<u>2350</u> Order approving Debtor's settlement with Siepe, LLC and Siepe Services, LLC.(Claims Nos. 38, 39) and authorizing actions consistent therewith (related document # <u>2243</u> ) Entered on 5/21/2021. (Okafor, M.)

05/21/2021	<u>2351</u> Declaration re: <i>(Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2349</u> Reply). (Attachments: # <u>1</u> Exhibit 19 # <u>2</u> Exhibit 20 # <u>3</u> Exhibit 21 # <u>4</u> Exhibit 22) (Annable, Zachery)
05/21/2021	<u>2352</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 165, 168, and 169 (RE: related document(s) <u>2335</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 5/21/2021 (Okafor, M.)
05/21/2021	<u>2353</u> Order sustaining objection to claim number(s) #93 of Integrated Financial Associates, Inc. (RE: related document(s) <u>2133</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 5/21/2021 (Okafor, M.)
05/21/2021	<u>2354</u> Order granting motion to continue hearing on (related document # <u>2340</u> ) (related documents Motion to borrow/incur debt <i>(Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Relating Hearing to be held on 6/25/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 2229</i> , Entered on 5/21/2021. (Okafor, M.)
05/21/2021	<u>2355</u> Declaration re: <i>(Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2349</u> Reply). (Attachments: # <u>1</u> Exhibit 19 # <u>2</u> Exhibit 20 # <u>3</u> Exhibit 21 # <u>4</u> Exhibit 22) (Annable, Zachery)
05/21/2021	<u>2356</u> Notice <i>(Notice of Filing of Sixth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
05/21/2021	<u>2357</u> Declaration re: <i>(Disclosure Declaration of Ordinary Course Professional)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
05/21/2021	<u>2358</u> Certificate of service re: <i>Documents Served on May 18, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2321</u> Notice <i>(Notice of Cancellation of Status Conference)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. <i>(Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief)</i> Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). filed by Debtor Highland Capital Management, L.P., <u>2324</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2243</u> Motion to compromise controversy with Siepe, LLC and Siepe Services, LLC. <i>(Motion of the Debtor for Entry of an Order Approving Settlement with Siepe, LLC and Siepe Services, LLC [Claim Nos. 38, 39] and Authorizing Actions Consistent Therewith)</i> <u>2325</u> Order granting fifth interim fee application for compensation <i>(related document 2221)</i> granting for FTI Consulting, Inc. Financial Advisor for the Official Committee of Unsecured Creditors, fees awarded: \$838751.40, expenses awarded:

	<p><i>\$0.00 Entered on 5/18/2021. (Okafor, M.), <u>2326</u> Order granting fourth interim application for compensation (related document <u>1655</u>) granting for FTI Consulting, Inc., Financial Advisor for the Official Committee of Unsecured Creditors, fees awarded: \$710280.45, expenses awarded: \$1479.47 Entered on 5/18/2021. (Okafor, M.), <u>2327</u> Order granting fifth interim application for compensation (related document <u>2233</u>) granting for Sidley Austin LLP, Attorneys for Official Committee of Unsecured Creditors, fees awarded: \$1957009.95, expenses awarded: \$23156.48 Entered on 5/18/2021. (Okafor, M.), <u>2328</u> Application for compensation Sidley Austin LLP's Seventeenth Monthly Application for Compensation for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2021 to 3/31/2021, Fee: \$371,842.20, Expenses: \$6,279.02. Filed by Attorney Juliana Hoffman Objections due by 6/8/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2329</u> Order granting fourth interim application for compensation (related document <u>1853</u>) granting Sidley Austin LLP, Attorneys for Official Committee of Unsecured Creditors, fees awarded: \$1620489.60, expenses awarded: \$8974.00 Entered on 5/18/2021. (Okafor, M.), <u>2331</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. (Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53 # 54 Exhibit 54 # 55 Exhibit 55 # 56 Exhibit 56 # 57 Exhibit 57 # 58 Exhibit 58 # 59 Exhibit 59 # 60 Exhibit 60 # 61 Exhibit 61 # 62 Exhibit 62 # 63 Exhibit 63 # 64 Exhibit 64 # 65 Exhibit 65 # 66 Exhibit 66 # 67 Exhibit 67 # 68 Exhibit 68 # 69 Exhibit 69 # 70 Exhibit 70 # 71 Exhibit 71 # 72 Exhibit 72 # 73 Exhibit 73) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
05/21/2021	<p><u>2359</u> Hearing held on 5/21/2021. (RE: related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P.) (Appearances: R. Feinstein, J. Morris, J. Pomeranz, and G. Demo for Debtor; A. Clubok and K. Posin for UBS; D. Draper for Dugaboy and Get Good Trusts; C. Taylor and B. Assink for J. Dondero. Evidentiary hearing. Motion approved for reasons stated on the record. Counsel to upload order.) (Edmond, Michael) (Entered: 05/24/2021)</p>
05/21/2021	<p><u>2368</u> Court admitted exhibits date of hearing May 21, 2021 (RE: related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch, (Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED EXHIBIT'S #1 THROUGH #17 BY ANDREW CLUBOK FOR UBS, EXHIBIT'S #1 THROUGH #40 &amp; #65 THROUGH #73 BY JOHN A. MORRIS FOR THE DEBTOR/HCMMLP, EXHIBIT'S #1 THROUGH #29 BY DOUGLAS S. DRAPER FOR DUGABOY INVESTMENT TRUST &amp; EXHIBIT'S #A THROUGH #X BY CLAY M. TAYLOR FOR JAMES DONDERO (Edmond, Michael) (Entered: 05/24/2021)</p>
05/24/2021	<p><u>2361</u> Agreed scheduling order with respect to Debtor's motion to disqualify Wick Phillips Gould &amp; Martin LLP as counsel to HCRE Partners, LLC (RE: related document(s)<u>2196</u> Motion to compel filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2196</u>, Entered on 5/24/2021 (Okafor, M.)</p>
05/24/2021	

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	<u>2362</u> Order requiring James Dondero to appear at all hearings in the bankruptcy case Entered on 5/24/2021 (Okafor, M.)
05/24/2021	<u>2363</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/24/2021	<u>2364</u> Request for transcript regarding a hearing held on 5/21/2021. The requested turn-around time is daily. (Edmond, Michael)
05/24/2021	<u>2365</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 38 and 39</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/24/2021	<u>2366</u> Subpoena on Grant Scott filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/24/2021	<u>2367</u> Notice of hearing filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. Filed by Get Good Trust, The Dugaboy Investment Trust Objections due by 5/20/2021.). Hearing to be held on 6/10/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2256</u> . (Draper, Douglas)
05/24/2021	<u>2369</u> Certificate of service re: Notice of Hearing filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2367</u> Notice of hearing). (Attachments: # <u>1</u> Mailing Matrix) (Draper, Douglas)
05/24/2021	<u>2370</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2260</u> Application for compensation <i>Seventeenth Monthly Application for Compensation for FTI Consulting, Inc.</i> for Official Committee of Unsecured Creditors, Financial Advisor, Period: 3/1/2021 to 3/31/2021, Fee: \$96,823.80, Expenses: \$0.). (Hoffman, Juliana)
05/24/2021	<u>2371</u> Certificate of service re: <i>1) Debtor's Notice of Deposition to Mark Patrick in Connection with Debtor's Contempt Motion; 2) Debtor's Notice of Rule 30(b)(6) Deposition to (A) CLO Holdco, Ltd., and (B) Charitable DAF Fund, L.P.; and 3) Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 165, 168, and 169</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2332</u> Notice to take deposition of Mark Patrick filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2333</u> Notice to take deposition of CLO Holdco, Ltd. and Charitable DAF Fund, L.P. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2335</u> Notice ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 165, 168, and 169</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/25/2021	<u>2372</u> Subpoena on NexBank Capital, Inc. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/25/2021	<u>2373</u> Subpoena on Highland Capital Management Fund Advisors, L.P. filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
05/25/2021	<u>2374</u> Certificate of service re: <i>1) Motion to Further Continue Hearing on Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter Into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief; 2) Debtor's Opposition to Motion to Compel Compliance with Bankruptcy Rule 2015.3 Filed by Dugaboy Investment Trust and Get Good Trust; and 3) Joinder of the Official Committee of Unsecured Creditors to Debtors Opposition to Motion to Compel Compliance with Bankruptcy Rule 2015.3 Filed by</i>

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	<p><i>Dugaboy Investment Trust and Get Good Trust</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2340</u> Motion to continue hearing on (related documents <u>2229</u> Motion to borrow/incur debt) (<i>Motion to Further Continue Hearing on Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2341</u> Response opposed to (related document(s): <u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2343</u> Joinder by <i>Debtors Opposition to Motion to Compel</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2341</u> Response). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
05/26/2021	<p><u>2375</u> Transcript regarding Hearing Held 05/21/2021 (191 pages) RE: Motion to Compromise Controversy (#2199). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/24/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 2359 Hearing held on 5/21/2021. (RE: related document(s)<u>2199</u> Motion to compromise controversy with UBS Securities LLC and UBS AG London Branch. Debtor's Motion for Entry of an Order Approving Settlement with UBS Securities LLC and UBS AG London Branch and Authorizing Actions Consistent Therewith) filed by Debtor Highland Capital Management, L.P.) (Appearances: R. Feinstein, J. Morris, J. Pomeranz, and G. Demo for Debtor; A. Clubok and K. Posin for UBS; D. Draper for Dugaboy and Get Good Trusts; C. Taylor and B. Assink for J. Dondero. Evidentiary hearing. Motion approved for reasons stated on the record. Counsel to upload order.)). Transcript to be made available to the public on 08/24/2021. (Rehling, Kathy)</p>
05/26/2021	<p><u>2376</u> Notice of Appearance and Request for Notice by Linda D. Reece filed by Creditor Plano ISD. (Reece, Linda)</p>
05/26/2021	<p><u>2377</u> Declaration re: (<i>Second Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2349</u> Reply). (Attachments: # <u>1</u> Exhibit 23 # <u>2</u> Exhibit 24) (Annable, Zachery)</p>
05/26/2021	<p><u>2378</u> Declaration re: (<i>Disclosure Declaration of Ordinary Course Professional</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). (Annable, Zachery)</p>
05/26/2021	<p><u>2379</u> Certificate of service re: [<i>Customized for Rule 3001(e)(2) or 3001(e)(4)</i>] <i>Notice of Transfer of Claim Pursuant to F. R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket Nos. 2092 2094 and 2096 2115]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2092</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Scott Ellington (Claim No. 244) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, <u>2093</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Frank Waterhouse (Claim No. 217) To CPCM, LCC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, <u>2094</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Jean Paul Sevilla (Claim No. 241) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, <u>2096</u> Assignment/Transfer of Claim. Fee Amount \$26. Transferors: Isaac Leventon (Claim No. 216) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, <u>2097</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Lucy Bannon (Claim No. 235) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, <u>2098</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement</p>

3001 (e) 2 Transferors: Jerome Carter (Claim No. 223) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2099 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Brian Collins (Claim No. 233) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2100 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Matthew DiOrio (Claim No. 230) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2101 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Hayley Eliason (Claim No. 236) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2102 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: William Gosserand (Claim No. 232) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2103 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Steven Haltom (Claim No. 224) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2104 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Charles Hoedebeck (Claim No. 228) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2105 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Mary Irving (Claim No. 231) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2106 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Helen Kim (Claim No. 226) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2107 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Kari Kovelan (Claim No. 227) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2108 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: William Mabry (Claim No. 234) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2109 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Mark Patrick (Claim No. 219) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2110 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Christopher Rice (Claim No. 220) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2111 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Jason Rothstein (Claim No. 229) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2112 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Kellie Stevens (Claim No. 221) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2113 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Ricky Swadley (Claim No. 237) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2114 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Lauren Thedford (Claim No. 222) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC, 2115 Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Stephanie Vitiello (Claim No. 225) To CPCM, LLC. Filed by Interested Party CPCM, LLC. filed by Interested Party CPCM, LLC). (Kass, Albert)

05/26/2021

2380 Certificate of service re: *Documents Served on May 21, 2021* Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 2345 Agreed scheduling order with respect to Debtors Objection to Application for Administrative Claim of Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (RE: related document(s) 2274 Objection filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 9/28/2021 at 09:30 AM at <https://us-courts.webex.com/meet/jerniga> for 2274, Entered on 5/21/2021 (Okafor, M.), 2349 Omnibus Reply to (related document(s): 2309 Response to show cause order filed by Respondent Mark Patrick, 2312 Objection filed by Interested Party James Dondero, 2313 Response to show cause order filed by Creditor The Charitable DAF Fund, L.P.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., 2350 Order approving Debtor's settlement with Siepe, LLC and Siepe Services, LLC.(Claims Nos. 38, 39) and authorizing actions consistent therewith (related document 2243) Entered on 5/21/2021. (Okafor, M.), 2352

000355

	<p>Order approving stipulation and agreed order authorizing withdrawal of proofs of claim 165, 168, and 169 (RE: related document(s)<u>2335</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 5/21/2021 (Okafor, M.), <u>2353</u> Order sustaining objection to claim number(s) #93 of Integrated Financial Associates, Inc. (RE: related document(s)<u>2133</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 5/21/2021 (Okafor, M.), <u>2354</u> Order granting motion to continue hearing on (related document <u>2340</u>) (related documents Motion to borrow/incur debt (<i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Relat) Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u>, Entered on 5/21/2021. (Okafor, M.), <u>2355</u> Declaration re: (Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2349</u> Reply). (Attachments: # 1 Exhibit 19 # 2 Exhibit 20 # 3 Exhibit 21 # 4 Exhibit 22) filed by Debtor Highland Capital Management, L.P., <u>2356</u> Notice (Notice of Filing of Sixth Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.). filed by Debtor Highland Capital Management, L.P., <u>2357</u> Declaration re: (Disclosure Declaration of Ordinary Course Professional) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</i></p>
05/26/2021	<p><u>2381</u> BNC certificate of mailing – PDF document. (RE: related document(s)<u>2362</u> Order requiring James Dondero to appear at all hearings in the bankruptcy case Entered on 5/24/2021 (Okafor, M.)) No. of Notices: 1. Notice Date 05/26/2021. (Admin.)</p>
05/27/2021	<p><u>2382</u> Application for compensation <i>Eighteenth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2021 to 4/30/2021, Fee: \$85,577.40, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 6/17/2021. (Hoffman, Juliana)</p>
05/27/2021	<p><u>2383</u> Application for compensation (<i>Nineteenth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from April 1, 2021 Through April 30, 2021</i>) for Pachulski Stang Ziehl &amp; Jones LLP, Debtor's Attorney, Period: 4/1/2021 to 4/30/2021, Fee: \$1,286,897.00, Expenses: \$8,173.58. Filed by Other Professional Pachulski Stang Ziehl &amp; Jones LLP (Annable, Zachery)</p>
05/27/2021	<p><u>2384</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . , Transmitted: Volume 1, Mini Record. Number of appellant volumes: 38 . Civil Case Number: 3:21-CV-00879-K (RE: related document(s)<u>2149</u> Notice of appeal <u>2169</u> Amended notice of appeal filed by Interested Party James Dondero (RE: related document(s)<u>2149</u> Notice of appeal.) (Blanco, J.)</p>
05/27/2021	<p><u>2386</u> Notice of docketing COMPLETE record on appeal. 3:21CV00879K (RE: related document(s)<u>2149</u> Notice of appeal<u>2169</u> Amended notice of appeal filed by Interested Party James Dondero (RE: related document(s)<u>2149</u> Notice of appeal.) (Blanco, J.)</p>
05/27/2021	



	<u>2387</u> Notice of hearing ( <i>Status Conference</i> ) filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc. (RE: related document(s) <u>1888</u> Application for administrative expenses Filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc.). Status Conference to be held on 8/4/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> . (Drawhorn, Lauren)
05/27/2021	<u>2388</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claims No. 38 and No. 39 (RE: related document(s) <u>2365</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 5/27/2021 (Okafor, M.)
05/27/2021	<u>2389</u> Order approving Debtor's settlement with UBS Securities LLC and UBS AG London Branch and authorizing actions consistent therewith (related document # <u>2199</u> ) Entered on 5/27/2021. (Okafor, M.)
05/27/2021	<u>2390</u> Certificate of service re: <i>Documents Served on May 24, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2361</u> Agreed scheduling order with respect to Debtor's motion to disqualify Wick Phillips Gould & Martin LLP as counsel to HCRE Partners, LLC (RE: related document(s) <u>2196</u> Motion to compel filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 10/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2196</u> , Entered on 5/24/2021 (Okafor, M.), <u>2363</u> Notice to take deposition of James Dondero filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2365</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 38 and 39</i> ) Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2366</u> Subpoena on Grant Scott filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
05/27/2021	<u>2391</u> Certificate of service re: <i>1) Debtor's Notice of Service of Subpoena in Connection with Debtor's Contempt Motion; and 2) Debtor's Notice of Service of Subpoena in Connection with Debtor's Contempt Motion</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2372</u> Subpoena on NexBank Capital, Inc. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2373</u> Subpoena on Highland Capital Management Fund Advisors, L.P. filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/01/2021	<u>2392</u> Withdrawal / <i>Notice of Withdrawal of Appearance</i> filed by Interested Party NexBank (RE: related document(s) <u>923</u> Notice of appearance and request for notice). (Slade, Jared)
06/01/2021	<u>2393</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u> , (Annable, Zachery)
06/01/2021	<u>2394</u> Certificate of service re: <i>1) Second Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not be Held in Civil Contempt for Violating Two Court Orders; and 2) Disclosure Declaration of Ordinary Course Professional</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2377</u> Declaration re: ( <i>Second Amended Reply Declaration of John A. Morris in Support of Debtor's Motion for an Order Requiring Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2349</u> Reply). (Attachments: # 1 Exhibit 23 # 2 Exhibit 24) filed by Debtor Highland Capital Management, L.P., <u>2378</u> Declaration re: ( <i>Disclosure Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)



06/01/2021	<u>2395</u> Motion to pay ( <i>Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
06/01/2021	<u>2396</u> Application for compensation <i>Sidley Austin LLP's Eighteenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2021 to 4/30/2021, Fee: \$417,427.20, Expenses: \$21,694.88. Filed by Attorney Juliana Hoffman Objections due by 6/22/2021. (Hoffman, Juliana)
06/02/2021	<u>2397</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2283</u> Application for compensation ( <i>Eleventh Monthly Application for Compensation and Reimbursement of Hayward PLLC as Local Counsel to the Debtor for the Period from October 1, 2020 through November 30, 2020</i> ) for Hayward PLLC, Debtor's Attorney,). (Annable, Zachery)
06/02/2021	<u>2398</u> Notice of appeal <i>and Statement of Election</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). Appellant Designation due by 06/16/2021. (Draper, Douglas)
06/02/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28754649, amount \$ 298.00 (re: Doc# <u>2398</u> ). (U.S. Treasury)
06/02/2021	<u>2399</u> Certificate of service re: <i>Documents Served on May 27, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2382</u> Application for compensation <i>Eighteenth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2021 to 4/30/2021, Fee: \$85,577.40, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 6/17/2021. filed by Financial Advisor FTI Consulting, Inc., <u>2383</u> Application for compensation ( <i>Nineteenth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from April 1, 2021 Through April 30, 2021</i> ) for Pachulski Stang Ziehl & Jones LLP, Debtor's Attorney, Period: 4/1/2021 to 4/30/2021, Fee: \$1,286,897.00, Expenses: \$8,173.58. Filed by Other Professional Pachulski Stang Ziehl & Jones LLP, <u>2388</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claims No. 38 and No. 39 (RE: related document(s) <u>2365</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 5/27/2021 (Okafor, M.), <u>2389</u> Order approving Debtor's settlement with UBS Securities LLC and UBS AG London Branch and authorizing actions consistent therewith (related document <u>2199</u> ) Entered on 5/27/2021. (Okafor, M.)). (Kass, Albert)
06/02/2021	<u>2466</u> Circuit Court Order granting motions for certification to court of appeals (Related Doc # <u>2033</u> ) Entered on 6/2/2021. IT IS ORDERED that the motion of Highland Global AllocationFund, Highland Income Fund, NexPoint Capital, Incorporated, and NexPoint Strategic Opportunities Fund for leave to appeal under 28 U.S.C. § 158(d) is GRANTED.IT IS FURTHER ORDERED that the motion of James Dondero forleave to appeal under 28 U.S.C. § 158(d) is GRANTED.IT IS FURTHER ORDERED that the motion of Get Good Trust andThe Dugaboy Investment Trust for leave to appeal under 28 U.S.C. § 158(d)is GRANTED. USCA Circuit Court Case: 21-10449 (Whitaker, Sheniqua) (Entered: 06/21/2021)
06/03/2021	<u>2400</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from March 1, 2021 through March 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
06/03/2021	<u>2401</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through April 30, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS

	105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
06/03/2021	<u>2402</u> Certificate of service re: 1) Amended Notice of Hearing; and 2) Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2393</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt (Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2229</u> , filed by Debtor Highland Capital Management, L.P., <u>2395</u> Motion to pay (Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/04/2021	<u>2403</u> Objection to (related document(s): <u>2229</u> Motion to borrow/incur debt (Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Relat filed by Debtor Highland Capital Management, L.P.) Preliminary Objection filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
06/04/2021	<u>2404</u> Declaration re: (Disclosure Declaration of Ordinary Course Professional) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
06/04/2021	<u>2405</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2395</u> Motion to pay (Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2395</u> . (Annable, Zachery)
06/04/2021	<u>2406</u> Response opposed to (related document(s): <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party James Dondero. (Howell, William)
06/04/2021	<u>2407</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2248</u> Motion to Reconsider (related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.), <u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u> ) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Any response should be filed by May 21, 2021. Entered on 4/29/2021. (Okafor, M.), <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2255</u> and for <u>2248</u> and for <u>2304</u> . (Annable, Zachery)

06/04/2021	<p><u>2408</u> Certificate of service re: <i>(Supplemental) 1) Debtor's Motion for Entry of an Order Further Extending the Period Within Which It May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure; and 2) Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2307</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2304</u>, filed by Debtor Highland Capital Management, L.P., <u>2337</u> Certificate of service re: <i>Documents Served on May 14, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2306</u> Application to employ Teneo Capital, LLC as Litigation Advisor to the Official Committee of Unsecured Creditors as Other Professional Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Exhibit # 2 Exhibit) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2307</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2304</u>, filed by Debtor Highland Capital Management, L.P., <u>2308</u> Omnibus Reply to (related document(s): <u>2268</u> Objection filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust, <u>2293</u> Objection filed by Creditor The Dugaboy Investment Trust, <u>2295</u> Objection filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8) filed by Debtor Highland Capital Management, L.P., <u>2311</u> Response opposed to (related document(s): <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) filed by Plaintiff The Charitable DAF Fund, L.P., Plaintiff CLO Holdco, Ltd.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2315</u> Joinder by <i>to Debtors Objection to Motion for Modification of Order Authorizing Appointment of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2311</u> Response). filed by Creditor Committee Official Committee of Unsecured Creditors). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
06/04/2021	<p><u>2409</u> Certificate of service re: <i>Eighteenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from April 1, 2021 Through April 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2396</u> Application for compensation <i>Sidley Austin LLP's Eighteenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2021 to 4/30/2021, Fee: \$417,427.20, Expenses: \$21,694.88. Filed by Attorney Juliana Hoffman Objections due by 6/22/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
06/05/2021	<p><u>2410</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2255</u> Order on motion to show cause). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u></p>

	Exhibit 42 # <u>43</u> Exhibit 43 # <u>44</u> Exhibit 44 # <u>45</u> Exhibit 45 # <u>46</u> Exhibit 46 # <u>47</u> Exhibit 47 # <u>48</u> Exhibit 48 # <u>49</u> Exhibit 49 # <u>50</u> Exhibit 50 # <u>51</u> Exhibit 51 # <u>52</u> Exhibit 52 # <u>53</u> Exhibit 53) (Annable, Zachery)
06/05/2021	<u>2411</u> Witness and Exhibit List filed by CLO Holdco, Ltd., The Charitable DAF Fund, L.P., Respondent Mark Patrick (RE: related document(s) <u>2255</u> Order on motion to show cause). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19 # <u>20</u> Exhibit 20 # <u>21</u> Exhibit 21 # <u>22</u> Exhibit 22 # <u>23</u> Exhibit 23 # <u>24</u> Exhibit 24 # <u>25</u> Exhibit 25 # <u>26</u> Exhibit 26 # <u>27</u> Exhibit 27 # <u>28</u> Exhibit 28 # <u>29</u> Exhibit 29 # <u>30</u> Exhibit 30 # <u>31</u> Exhibit 31 # <u>32</u> Exhibit 32 # <u>33</u> Exhibit 33 # <u>34</u> Exhibit 34 # <u>35</u> Exhibit 35 # <u>36</u> Exhibit 36 # <u>37</u> Exhibit 37 # <u>38</u> Exhibit 38 # <u>39</u> Exhibit 39 # <u>40</u> Exhibit 40 # <u>41</u> Exhibit 41 # <u>42</u> Exhibit 42 # <u>43</u> Exhibit 43) (Phillips, Louis)
06/05/2021	<u>2412</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16 # <u>17</u> Exhibit 17 # <u>18</u> Exhibit 18 # <u>19</u> Exhibit 19) (Annable, Zachery)
06/06/2021	<u>2414</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2398</u> Notice of appeal <i>and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). Appellant Designation due by 06/16/2021.) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
06/06/2021	<u>2415</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2398</u> Notice of appeal <i>and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). (Whitaker, Sheniqua)
06/06/2021	<u>2416</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-01295-X. (RE: related document(s) <u>2398</u> Notice of appeal <i>and Statement of Election</i> . filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). (Whitaker, Sheniqua)
06/07/2021	<u>2417</u> Notice ( <i>Notice of Proposed Order</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). (Annable, Zachery)
06/07/2021	<u>2418</u> Declaration re: ( <i>Declaration of Jeffrey N. Pomerantz</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2417</u> Notice (generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Annable, Zachery)
06/07/2021	<u>2419</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2412</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 16 # <u>2</u> Exhibit 17) (Annable, Zachery)
06/07/2021	<u>2420</u> Amended Witness and Exhibit List <i>Exhibits 44, 45, 46</i> filed by CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2411</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 44 # <u>2</u> Exhibit 45 # <u>3</u> Exhibit 46) (Sbaiti, Mazin)
06/07/2021	<u>2421</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2410</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 54 # <u>2</u> Exhibit 55) (Annable, Zachery)



06/08/2021	<u>2422</u> Request for transcript regarding a hearing held on 6/8/2021. The requested turn-around time is hourly. (Edmond, Michael)
06/08/2021	<u>2423</u> Amended Witness and Exhibit List ( <i>Second Amended</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2419</u> List (witness/exhibit/generic)). (Hayward, Melissa)
06/08/2021	<u>2424</u> Reply to (related document(s): <u>2341</u> Response filed by Debtor Highland Capital Management, L.P.) <i>Reply to Debtor's Opposition to Motion to Compel Compliance with Bankruptcy Rule 2015.3</i> filed by Get Good Trust, The Dugaboy Investment Trust. (Attachments: # <u>1</u> Exhibit 1) (Draper, Douglas)
06/08/2021	<u>2425</u> Certificate of service re: Reply to Debtor's Opposition to Motion to Compel Compliance with Bankruptcy Rule 2015.3 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2424</u> Reply). (Draper, Douglas)
06/08/2021	<u>2426</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2306</u> Application to employ Teneo Capital, LLC as Litigation Advisor to the Official Committee of Unsecured Creditors as Other Professional ). (Hoffman, Juliana)
06/08/2021	<u>2427</u> Certificate of service re: [ <i>Customized for Rule 3001(e)(2) or 3001(e)(4)</i> ] <i>Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket Nos. 2211 and 2215]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2211</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Acis Capital Management GP, LLC (Claim No. 23, Amount \$23,000,000.00) To ACMLP Claim, LLC. Filed by Creditor Acis Capital Management GP, LLC. filed by Creditor Acis Capital Management GP, LLC, <u>2215</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: ACMLP Claim, LLC (Claim No. 23, Amount \$23,000,000.00) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. filed by Creditor Muck Holdings LLC). (Kass, Albert)
06/08/2021	<u>2428</u> Certificate of service re: 1) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from March 1, 2021 Through March 31, 2021;</i> and 2) <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to April 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2400</u> <i>Notice (Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from March 1, 2021 through March 31, 2021)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2401</u> <i>Notice (Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 through April 30, 2021)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/08/2021	<u>2430</u> Hearing held on 6/8/2021. (RE: related document(s) <u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u> ) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Appearances: J. Morris, J. Pomeranz, and G. Demo for Debtor; M. Sbati and J. Bridges for DAF and CLO Holdco, Ltd.; L. Phillips and M. Anderson for Mark Patrick; C. Taylor for J. Dondero; M. Clemente for UCC. Evidentiary hearing. Court took matter under advisement.) (Edmond, Michael)

06/08/2021	2431 Hearing held on 6/8/2021. (RE: related document(s) <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Morris, J. Pomeranz, and G. Demo for Debtor; M. Sbati and J. Bridges for DAF and CLO Holdco, Ltd.; L. Phillips and M. Anderson for Mark Patrick; C. Taylor and J. Wilson for J. Dondero; M. Clemente for UCC. Nonevidentiary hearing. Court granted 90-day continuance without prejudice. Counsel to upload order.) (Edmond, Michael)
06/08/2021	<u>2519</u> Court admitted exhibits date of hearing June 8, 2021 (RE: related document(s) <u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u> ) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (COURT ADMITTED DEBTOR'S EXHIBIT'S #12 THROUGH #55 THAT APPEAR AT DOC. #2410 BY JOHN MORRIS; (NOTE* EXHIBIT'S #1 THROUGH #11 WERE NOT ADMITTED) & THE COURT ADMITTED DEFENDANT'S EXHIBIT'S #1, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26, #27, #28, & #30 THROUGH #44 ALL ADMITTED BY LOUIS PHILLIPS; (NOTE* EXHIBIT'S #13, #14 & #29 WERE NOT ADMITTED) (Edmond, Michael) Modified on 10/22/2021 (Edmond, Michael). (Entered: 07/02/2021)
06/09/2021	<u>2432</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 54 . Civil Case Number: 3:21-CV-00538-N (RE: related document(s) <u>1957</u> Notice of appeal ) (Blanco, J.)
06/09/2021	<u>2433</u> Notice of docketing record on appeal. 3:21-cv-00538-N (RE: related document(s) <u>1957</u> Notice of appeal ) (Blanco, J.)
06/09/2021	<u>2434</u> Certificate of service re: <i>1) Disclosure Declaration of Ordinary Course Professional; 2) Notice of Hearing; and 3) Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2404</u> Declaration re: ( <i>Disclosure Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>2405</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2395</u> Motion to pay ( <i>Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2395</u> , filed by Debtor Highland Capital Management, L.P., <u>2407</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.), <u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u> ) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. Any response should be filed by May 21, 2021. Entered on 4/29/2021. (Okafor, M.), <u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 6/8/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2255</u> and for <u>2248</u> and for <u>2304</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/09/2021	<u>2435</u> Certificate of service re: <i>1) Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 8, 2021; and 2) Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 8, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2410</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2255</u> Order on motion to show cause). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4

	<p># 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19 # 20 Exhibit 20 # 21 Exhibit 21 # 22 Exhibit 22 # 23 Exhibit 23 # 24 Exhibit 24 # 25 Exhibit 25 # 26 Exhibit 26 # 27 Exhibit 27 # 28 Exhibit 28 # 29 Exhibit 29 # 30 Exhibit 30 # 31 Exhibit 31 # 32 Exhibit 32 # 33 Exhibit 33 # 34 Exhibit 34 # 35 Exhibit 35 # 36 Exhibit 36 # 37 Exhibit 37 # 38 Exhibit 38 # 39 Exhibit 39 # 40 Exhibit 40 # 41 Exhibit 41 # 42 Exhibit 42 # 43 Exhibit 43 # 44 Exhibit 44 # 45 Exhibit 45 # 46 Exhibit 46 # 47 Exhibit 47 # 48 Exhibit 48 # 49 Exhibit 49 # 50 Exhibit 50 # 51 Exhibit 51 # 52 Exhibit 52 # 53 Exhibit 53) filed by Debtor Highland Capital Management, L.P., <u>2412</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16 # 17 Exhibit 17 # 18 Exhibit 18 # 19 Exhibit 19) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/09/2021	<p><u>2436</u> Certificate of service re: <i>Documents Served on June 7, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2417</u> Notice (<i>Notice of Proposed Order</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2418</u> Declaration re: (<i>Declaration of Jeffrey N. Pomerantz</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2417</u> Notice (generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2) filed by Debtor Highland Capital Management, L.P., <u>2419</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2412</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 16 # 2 Exhibit 17) filed by Debtor Highland Capital Management, L.P., <u>2421</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2410</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 54 # 2 Exhibit 55) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/09/2021	<p><u>2437</u> Certificate of service re: <i>Debtor's Second Amended Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 8, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2423</u> Amended Witness and Exhibit List (<i>Second Amended</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2419</u> List (witness/exhibit/generic)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/09/2021	<p><u>2438</u> BNC certificate of mailing. (RE: related document(s)<u>2415</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)<u>2398</u> Notice of appeal <i>and Statement of Election</i>. filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>2389</u> Order on motion to compromise controversy.) No. of Notices: 1. Notice Date 06/09/2021. (Admin.)</p>
06/10/2021	<p><u>2439</u> Amended Notice of hearing filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s)<u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). Hearing to be held on 6/11/2021 at 10:00 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2248</u>, (Sbaiti, Mazin)</p>
06/10/2021	<p><u>2440</u> Transcript regarding Hearing Held 06/08/2021 (298 pages) RE: Show Cause Hearing (2255); Motion to Modify Order (2248); Motion to Extend Time (2304). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/8/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 2430 Hearing held on 6/8/2021. (RE:</p>

	<p>related document(s)<u>2255</u> Order requiring violators to show cause why they should not be held in civil contempt for violating two court orders (related document <u>2247</u>) Show Cause hearing to be held on 6/8/2021 at 09:30 AM at Dallas Judge Jernigan Ctrm. (Appearances: J. Morris, J. Pomeranz, and G. Demo for Debtor; M. Sbati and J. Bridges for DAF and CLO Holdco, Ltd.; L. Phillips and M. Anderson for Mark Patrick; C. Taylor for J. Dondero; M. Clemente for UCC. Evidentiary hearing. Court took matter under advisement.), 2431 Hearing held on 6/8/2021. (RE: related document(s)<u>2304</u> Motion to extend time to Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>1725</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Morris, J. Pomeranz, and G. Demo for Debtor; M. Sbati and J. Bridges for DAF and CLO Holdco, Ltd.; L. Phillips and M. Anderson for Mark Patrick; C. Taylor and J. Wilson for J. Dondero; M. Clemente for UCC. Nonevidentiary hearing. Court granted 90–day continuance without prejudice. Counsel to upload order.)). Transcript to be made available to the public on 09/8/2021. (Rehling, Kathy)</p>
06/10/2021	<p><u>2441</u> Agreed Motion to continue hearing on (related documents <u>2248</u> Motion to Reconsider) Filed by Plaintiff The Charitable DAF Fund, L.P. (Attachments: # <u>1</u> Proposed Order) (Sbaiti, Mazin)</p>
06/10/2021	<p><u>2442</u> Hearing held on 6/10/2021. (RE: related document(s)<u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. filed by Get Good Trust, The Dugaboy Investment Trust., (Appearances: D. Draper for Trusts; J. Pomeranz and J. Morris for Debtor; M. Clemente for UCC. Nonevidentiary hearing. Motion continued for another hearing in early September (counsel should contact CRD for a setting). If Effective Date occurs before then, matter will be moot; if Effective Date has not occurred by then, court will consider motion further. Mr. Pomeranz should upload an order consistent with the courts ruling. Court will separately be issuing an order requiring: (a) Trust representative to appear at all future hearings in which Trusts take positions; and (b) certain information from Dondero–related entities for clarification of their standing.) (Edmond, Michael) (Entered: 06/11/2021)</p>
06/11/2021	<p>Receipt Number 338903, Fee Amount \$207.00 – Filing Fee for Direct Appeal to Fifth Circuit Court of Appeals paid by K&amp;L Gates LLP (RE: related document(s)<u>1966</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund (RE: related document(s)<u>1943</u> Order confirming chapter 11 plan). Appellant Designation due by 03/17/2021. (Hogewood, A.)) (Floyd, K)</p>
06/11/2021	<p><u>2443</u> Order granting application to employ Teneo Capital, LLC as litigation advisor to the Official Committee of Unsecured Creditors effective April 15, 2021 (related document # <u>2306</u>) Entered on 6/11/2021. (Okafor, M.)</p>
06/11/2021	<p><u>2444</u> Request for transcript regarding a hearing held on 6/10/2021. The requested turn–around time is hourly. (Edmond, Michael)</p>
06/12/2021	<p><u>2445</u> Transcript regarding Hearing Held 06/10/2021 (91 pages) RE: Motion to Compel Compliance (2256). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/10/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972–786–3063. (RE: related document(s) <u>2442</u> Hearing held on 6/10/2021. (RE: related document(s)<u>2256</u> Motion to compel Compliance with Bankruptcy Rule 2015.3. filed by Get Good Trust, The Dugaboy Investment Trust., (Appearances: D. Draper for Trusts; J. Pomeranz and J. Morris for Debtor; M. Clemente for UCC. Nonevidentiary hearing. Motion continued for another hearing in early September (counsel should contact CRD for a setting). If Effective Date occurs before then, matter will be moot; if Effective Date has not occurred by then, court will consider motion further. Mr. Pomeranz should upload an order consistent with the courts ruling. Court will separately be issuing an order requiring: (a)</p>



	Trust representative to appear at all future hearings in which Trusts take positions; and (b) certain information from Dondero-related entities for clarification of their standing.)). Transcript to be made available to the public on 09/10/2021. (Rehling, Kathy)
06/14/2021	Receipt Number 338904, Fee Amount \$207.00 – Filing fee for Direct Appeal to Fifth Circuit Court of Appeals paid by Heller, Draper, Patrick, Horn & Dabney, LLC (Fifth Circuit Docket No. 21-10449) (RE: related document(s) <u>2014</u> Amended notice of appeal filed by Creditor The Dugaboy Investment Trust, Creditor Get Good Trust.(RE: related document(s) <u>1943</u> Order confirming chapter 11 plan)).
06/14/2021	<u>2446</u> Second Notice of hearing filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (Ecker, C.)). Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2248</u> , (Sbaiti, Mazin)
06/14/2021	<u>2447</u> Notice to take deposition of Trussway Industries, LLC filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
06/14/2021	<u>2448</u> Notice to take deposition of Highland Capital Management, LP filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
06/15/2021	<u>2449</u> Certificate of service re: <i>Order Pursuant to Section 1103 of the Bankruptcy Code Authorizing the Employment and Retention of Teneo Capital, LLC as Litigation Advisor to the Official Committee of Unsecured Creditors Effective April 15, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2443</u> Order granting application to employ Teneo Capital, LLC as litigation advisor to the Official Committee of Unsecured Creditors effective April 15, 2021 (related document <u>2306</u> ) Entered on 6/11/2021. (Okafor, M.)). (Kass, Albert)
06/15/2021	<u>2450</u> Certificate of service re: <i>(Supplemental) [Customized for Rule 3001(e)(2) or 3001(e)(4)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket Nos. 2211]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2211</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Acis Capital Management GP, LLC (Claim No. 23, Amount \$23,000,000.00) To ACMLP Claim, LLC. Filed by Creditor Acis Capital Management GP, LLC. filed by Creditor Acis Capital Management GP, LLC, <u>2427</u> Certificate of service re: <i>[Customized for Rule 3001(e)(2) or 3001(e)(4)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket Nos. 2211 and 2215]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2211</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Acis Capital Management GP, LLC (Claim No. 23, Amount \$23,000,000.00) To ACMLP Claim, LLC. Filed by Creditor Acis Capital Management GP, LLC. filed by Creditor Acis Capital Management GP, LLC, <u>2215</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: ACMLP Claim, LLC (Claim No. 23, Amount \$23,000,000.00) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. filed by Creditor Muck Holdings LLC). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
06/16/2021	<u>2451</u> Statement of issues on appeal, filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). (Draper, Douglas)
06/16/2021	<u>2452</u> Appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2398</u> Notice of appeal, <u>2451</u> Statement of issues on appeal). Appellee designation due by 06/30/2021. (Draper, Douglas)
06/16/2021	<u>2453</u> Order Further Extending Period Within Which The Debtor May Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure

	(related document:# <u>2304</u> Motion to extend time.) Entered on 6/16/2021. (Okafor, M.)
06/16/2021	<u>2454</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2421</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 23 # <u>2</u> Exhibit 24) (Annable, Zachery)
06/16/2021	<u>2455</u> Support/supplemental document ( <i>Notice of Final Term Sheet</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela</i> ). (Annable, Zachery)
06/16/2021	<u>2456</u> Order granting unopposed emergency motion to continue hearing on (related document # <u>2441</u> ) (related documents Motion to Reconsider(related documents <u>854</u> Order on application to employ)) Hearing to be held on 6/25/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2248</u> , Entered on 6/16/2021. (Okafor, M.)
06/17/2021	<u>2457</u> Clerk's correspondence requesting exhibits from attorney for appellant. (RE: related document(s) <u>2452</u> Appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2398</u> Notice of appeal, <u>2451</u> Statement of issues on appeal). Appellee designation due by 06/30/2021.) Responses due by 6/21/2021. (Blanco, J.)
06/17/2021	<u>2458</u> Order requiring a trustee of The Dugaboy Investment Trust and the The Get Good Trust to appear at all hearings in the bankruptcy case and adversary cases in which they take positions. Entered on 6/17/2021 (Okafor, M.)
06/17/2021	<u>2459</u> Motion for leave to <i>Amend the Designation of Record Pursuant to Fed. R. Bankr. P. 8009</i> (related document(s) <u>2452</u> Appellant designation) Filed by Get Good Trust, The Dugaboy Investment Trust (Attachments: # <u>1</u> Exhibit A) (Draper, Douglas)
06/18/2021	<u>2460</u> Order Requiring Disclosures (RE: related document(s) <u>3</u> Chapter 11 Voluntary Petition . Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages); <sup>10</sup> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)
06/18/2021	<u>2461</u> Application for compensation ( <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 through December 31, 2020</i> ) for Hayward PLLC, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$43,270.00, Expenses: \$1,693.45. Filed by Other Professional Hayward PLLC (Annable, Zachery)
06/18/2021	<u>2464</u> Certificate of No Objection Regarding Debtor's Third Omnibus Objection to Certain No-Liability Claims filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Objection to claim). (Annable, Zachery)
06/21/2021	<u>2465</u> Certificate of service re: 1) <i>Order Further Extending Period Within Which the Debtor May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i> ; 2) <i>Debtor's Second Amended Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 8, 2021</i> ; and 3) <i>Notice of Final Term Sheet</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2453</u> Order Further Extending Period Within Which The Debtor May Remove Actions Pursuant to 28 USC 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (related document: <u>2304</u> Motion to extend time.) Entered on 6/16/2021. (Okafor, M.), <u>2454</u>

	Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2421</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 23 # 2 Exhibit 24) filed by Debtor Highland Capital Management, L.P., <u>2455</u> Support/supplemental document ( <i>Notice of Final Term Sheet</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela</i> ). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/21/2021	<u>2467</u> Supplemental Objection to (related document(s): <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela</i> filed by Debtor Highland Capital Management, L.P.) filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
06/21/2021	<u>2468</u> First Order sustaining Debtor's third omnibus objection to certain no liability claims (RE: related document(s) <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 6/21/2021 (Okafor, M.)
06/22/2021	<u>2469</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>2280</u> Motion to file document under seal. <i>Appendix in Support of Response to Motion to Disqualify</i> Filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (Attachments: # 1 Exhibit A – Proposed Order # 2 Exhibit B – Appendix)) Responses due by 6/29/2021. (Ecker, C.)
06/22/2021	<u>2470</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2383</u> Application for compensation ( <i>Nineteenth Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from April 1, 2021 Through April 30, 2021</i> ) for Pachulsk). (Pomerantz, Jeffrey)
06/22/2021	<u>2471</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2382</u> Application for compensation <i>Eighteenth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 4/1/2021 to 4/30/2021, Fee: \$85,577.40, Expenses: \$0.). (Hoffman, Juliana)
06/22/2021	<u>2472</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2395</u> Motion to pay ( <i>Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer</i> )). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3) (Annable, Zachery)
06/22/2021	<u>2473</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela</i> ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4) (Annable, Zachery)
06/23/2021	<u>2474</u> Order granting motion for leave to amend the Designation of Record Pursuant to Fed. R. Bankr. P. 8009 (related document # <u>2459</u> ) Entered on 6/23/2021. (Okafor, M.)
06/23/2021	<u>2475</u> Witness and Exhibit List with <i>Certificate of Service</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela</i> ). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4A # <u>5</u> Exhibit 4B # <u>6</u> Exhibit 5 # <u>7</u> Exhibit 6 # <u>8</u> Exhibit 7 # <u>9</u> Exhibit 8 # <u>10</u>

	<i>Exhibit 9 # <u>11</u> Exhibit 10) (Draper, Douglas)</i>
06/23/2021	<u>2476</u> Reply to (related document(s): <u>2403</u> Objection filed by Creditor The Dugaboy Investment Trust, <u>2467</u> Objection filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D) (Annable, Zachery). Related document(s) <u>2229</u> Motion to borrow/incur debt ( <i>Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Relate</i> filed by Debtor Highland Capital Management, L.P.. Modified on 6/24/2021 (Ecker, C.).
06/23/2021	<u>2477</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2473</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 5 # <u>3</u> Exhibit 6 # <u>4</u> Exhibit 7 # <u>5</u> Exhibit 8) (Annable, Zachery)
06/23/2021	<u>2478</u> Certificate of service re: <i>1) Order Requiring Disclosures; 2) Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 Through December 31, 2020; and 3) Certification of No Objection Regarding Debtor's Third Omnibus Objection to Certain No Liability Claims [No Responses Filed]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2460</u> Order Requiring Disclosures (RE: related document(s) <u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.), <u>2461</u> Application for compensation ( <i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 through December 31, 2020</i> ) for Hayward PLLC, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$43,270.00, Expenses: \$1,693.45. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, <u>2464</u> Certificate of No Objection Regarding Debtor's Third Omnibus Objection to Certain No-Liability Claims filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Objection to claim). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
06/23/2021	<u>2479</u> Certificate of service re: <i>First Order Sustaining Debtor's Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2468</u> First Order sustaining Debtor's third omnibus objection to certain no liability claims (RE: related document(s) <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 6/21/2021 (Okafor, M.)). (Kass, Albert)
06/24/2021	<u>2480</u> Application for compensation <i>Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, Fee: \$7,527,021.50, Expenses: \$80,299.92. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/15/2021. (Pomerantz, Jeffrey)
06/24/2021	<u>2481</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2480</u> Application for compensation <i>Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, Fee: \$7,527,021.50, Expenses: \$80,299.92. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/15/2021.). Hearing to be held on 7/19/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2480</u> , (Pomerantz, Jeffrey)



06/24/2021	<p><u>2482</u> Declaration re: <i>(Supplemental Declaration of Timothy F. Silva in Support of Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel <i>(Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment)</i>). (Annable, Zachery)</p>
06/25/2021	<p><u>2483</u> Certificate of service re: 1) <i>Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 25, 2021 re: Debtors Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtors Chief Executive Officer and Chief Restructuring Officer; and 2) Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 25, 2021 re: Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter Into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2472</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2395</u> Motion to pay <i>(Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer)</i>). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3) filed by Debtor Highland Capital Management, L.P., <u>2473</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2229</u> Motion to borrow/incur debt <i>(Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela)</i>). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/25/2021	<p><u>2484</u> Certificate of service re: 1) <i>Debtor's Reply in Support of Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter Into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief; and 2) Debtor's Amended Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 25, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2476</u> Reply to (related document(s): <u>2403</u> Objection filed by Creditor The Dugaboy Investment Trust, <u>2467</u> Objection filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D) (Annable, Zachery). Related document(s) <u>2229</u> Motion to borrow/incur debt <i>(Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Rela</i> filed by Debtor Highland Capital Management, L.P.. Modified on 6/24/2021 (Ecker, C.). filed by Debtor Highland Capital Management, L.P., <u>2477</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2473</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 1 # 2 Exhibit 5 # 3 Exhibit 6 # 4 Exhibit 7 # 5 Exhibit 8) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/25/2021	<p><u>2485</u> Amended U.S. Trustee's appointment of committee of <i>Unsecured Creditors</i> (Lambert, Lisa)</p>
06/25/2021	<p><u>2486</u> Certificate of service re: U.S. Trustee's Amended Appointment of Committee of Unsecured Creditors filed by U.S. Trustee United States Trustee (RE: related document(s)<u>2485</u> UST appointment of committee). (Lambert, Lisa)</p>
06/25/2021	<p><u>2487</u> Hearing held on 6/25/2021. (RE: related document(s)<u>2229</u> Motion to borrow/incur debt <i>(Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief)</i> filed by Debtor Highland</p>

	Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion approved. Counsel to upload order.) (Edmond, Michael)
06/25/2021	2488 INCORRECT ENTRY (corrected by DE 2490) Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd. , The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion approved. Counsel to upload order.) (Edmond, Michael) Modified on 6/29/2021 (Ellison, T.).
06/25/2021	2489 Hearing held on 6/25/2021. (RE: related document(s) <u>2395</u> Motion to pay (Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion approved. Counsel to upload order.) (Edmond, Michael)
06/25/2021	2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd. , The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.) (Edmond, Michael)
06/25/2021	<u>2491</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)
06/25/2021	<u>2492</u> Court admitted exhibits date of hearing June 25, 2021 (RE: related document(s) <u>2229</u> Motion to borrow/incur debt (Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief) filed by Debtor Highland Capital Management, L.P., <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd. , The Charitable DAF Fund, L.P. (Ecker, C.), <u>2395</u> Motion to pay (Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer) filed by Debtor Highland Capital Management, L.P.) (NOTE* COURT ADMITTED EXHIBIT'S DEBTOR'S #1, #2, #3 THAT APPEARS AT DOC. #2472 BY JEFF POMERANTZ AND DUGABOY'S EXHIBIT'S #1, #2, #3, #4, #5, #6, #7 & #8 THAT APPEARS AT #2473 & 2477; NOTE* #2, #3 & #4 APPEARS AT DOC. #2473 & #1, #5, #6, #7 & #8 APPEARS AD DOC. 2477 BY DOUGLAS DRAPER, FOR MOTION AT DOC. #2229); (DEBTOR'S EXHIBIT'S #1 THOROUGH #17 THAT APPEARS AT DOC. #2412, #2419 & #2423 BY JOHN MORRIS AND CHARITABLE DAF FUND, L.P. AND CLO HOLDCO, LTD., EXHIBIT'S #1 THROUGH #44 BY JONATHNA BRIDGES; NOTE* EXHIBIT'S #2, #3, #17 & #19 WERE NOT ADMITED BY JONATHAN BRIDGES) FOR MOTION AT DOC. #2395) (Edmond, Michael) (Entered: 06/28/2021)
06/28/2021	<u>2493</u> Request for transcript regarding (MOTION FOR MODIFICATION OF ORDER AUTHORIZING RETENTION OF JAMES SEERY, JR.) a hearing held on 6/25/2021. The requested turn-around time is daily. (Edmond, Michael) Modified TEXT on 6/29/2021 (Jeng, Hawaii).
06/28/2021	

	Receipt Number 338916, Fee Amount \$207.00 for Direct Appeal to the Fifth Circuit Court of Appeals (Reference 21-90011 and 21-10449) (RE: related document(s) <u>1970</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero. Appellant Designation due by 03/18/2021. (Attachments: # 1 Exhibit)) (Floyd, K)
06/28/2021	<u>2494</u> Order Requiring Post-Hearing Submissions. Details Per Order. (RE: related document(s) <u>2248</u> Motion to Reconsider filed by Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P., Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.). Entered on 6/28/2021 (Okafor, M.)
06/28/2021	<u>2495</u> Notice ( <i>Notice of Filing of Second Amended and Restated Investment Advisory Agreement</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2494</u> Order Requiring Post-Hearing Submissions. Details Per Order. (RE: related document(s) <u>2248</u> Motion to Reconsider filed by Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P., Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.). Entered on 6/28/2021 (Okafor, M.)). (Annable, Zachery)
06/28/2021	<u>2496</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2491</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B)). Hearing to be held on 7/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2491</u> , (Annable, Zachery)
06/29/2021	<u>2497</u> Request for transcript regarding a(ENTIRE) hearing held on 6/25/2021. The requested turn-around time is hourly (Jeng, Hawaii)
06/29/2021	<u>2498</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2396</u> Application for compensation <i>Sidley Austin LLP's Eighteenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 4/1/2021 to 4/30/2021, Fee: \$417,427.20, Expenses: \$2). (Hoffman, Juliana)
06/29/2021	<u>2499</u> Certificate of service re: 1) <i>Fourth Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period from December 1, 2020 Through April 30, 2021</i> ; 2) <i>Notice of Hearing on Fourth Interim Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP, as Counsel for the Debtor and Debtor in Possession, for the Period from December 1, 2020 Through April 30, 2021</i> ; and 3) <i>Supplemental Declaration of Timothy F. Silva in Support of Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2480</u> Application for compensation <i>Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, Fee: \$7,527,021.50, Expenses: \$80,299.92. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/15/2021. filed by Debtor Highland Capital Management, L.P., <u>2481</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2480</u> Application for compensation <i>Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, Fee: \$7,527,021.50, Expenses: \$80,299.92. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/15/2021.). Hearing to be held on 7/19/2021 at 09:30 AM Dallas Judge Jernigan Ctrm for <u>2480</u> , filed by Debtor Highland Capital Management, L.P., <u>2482</u> Declaration re: ( <i>Supplemental Declaration of Timothy F. Silva in Support of Debtor's</i>

	<p><i>Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment of Wilmer Cutler Pickering Hale and Dorr LLP as Regulatory and Compliance Counsel</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>605</u> Application to employ Wilmer Cutler Pickering Hale and Dorr LLP as Special Counsel (<i>Debtor's Application Pursuant to Sections 327(e) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016 for an Order Authorizing the Employment</i>), filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
06/30/2021	<p><u>2500</u> Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)</p>
06/30/2021	<p><u>2501</u> Transcript regarding Hearing Held 06/25/2021 (79 pages) (Excerpt 1: Proceedings from 9:36 am to 11:25 am) RE: Motion to Borrow (2229) and Motion to Pay Restructuring Fee (2395). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 2487 Hearing held on 6/25/2021. (RE: related document(s) <u>2229</u> Motion to borrow/incur debt (Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion approved. Counsel to upload order.), 2489 Hearing held on 6/25/2021. (RE: related document(s) <u>2395</u> Motion to pay (Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer) filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion approved. Counsel to upload order.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)</p>
06/30/2021	<p><u>2502</u> Application for compensation <i>Twentieth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from May 1, 2021 through May 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 5/1/2021 to 5/31/2021, Fee: \$1,603,754.00, Expenses: \$28,644.51. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/21/2021. (Pomerantz, Jeffrey)</p>
06/30/2021	<p><u>2503</u> Order Granting Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief (related document # <u>2229</u>) Entered on 6/30/2021. (Okafor, M.)</p>
06/30/2021	



	<u>2504</u> Order Granting Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer (related document # <u>2395</u> ) Entered on 6/30/2021. (Okafor, M.)
06/30/2021	<u>2505</u> Order granting motion to seal appendix (related document # <u>2280</u> ) Entered on 6/30/2021. (Okafor, M.)
06/30/2021	<u>2506</u> Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)
06/30/2021	<u>2507</u> Notice ( <i>Third Notice of Additional Services Provided by Deloitte Tax LLP</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u> ) Entered on 3/27/2020. (Okafor, M.)). (Annable, Zachery)
06/30/2021	<u>2508</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
06/30/2021	<u>2509</u> Certificate of service re: <i>Debtor's Motion for Entry of an Order (I) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (II) Granting Related Relief</i> ) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2491</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/01/2021	<u>2510</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2480</u> Application for compensation <i>Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, Fee: \$7,527,021.50, Expenses: \$80,299.92. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/15/2021.). Hearing to be held on 7/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2480</u> , (Annable, Zachery)
07/01/2021	<u>2511</u> Certificate of service re: <i>1) Order Requiring Post-Hearing Submissions; 2) Notice of Filing of Second Amended and Restated Investment Advisory Agreement; and 3) Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2494</u> Order Requiring Post-Hearing Submissions. Details Per Order. (RE: related document(s) <u>2248</u> Motion to Reconsider filed by Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P., Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.). Entered on 6/28/2021 (Okafor, M.), <u>2495</u> Notice ( <i>Notice of Filing of Second Amended and Restated Investment Advisory Agreement</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2494</u> Order Requiring Post-Hearing Submissions. Details Per Order. (RE: related document(s) <u>2248</u> Motion to Reconsider filed by Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P., Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.). Entered on 6/28/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2496</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2491</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (i)</i>

	<i>Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B)). Hearing to be held on 7/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2491</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/01/2021	<u>2512</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2328</u> Application for compensation <i>Sidley Austin LLP's Seventeenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2021 to 3/31/2021, Fee: \$371,842.20, Expenses: \$). (Hoffman, Juliana)
07/02/2021	<u>2513</u> Notice of appeal . Fee Amount \$298 filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). Appellant Designation due by 07/16/2021. (Sbaiti, Mazin)
07/02/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28822100, amount \$ 298.00 (re: Doc# <u>2513</u> ). (U.S. Treasury)
07/02/2021	<u>2514</u> Application for compensation <i>Nineteenth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: to, Fee: \$88,932.60, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 7/23/2021. (Hoffman, Juliana)
07/02/2021	<u>2515</u> Notice ( <i>Notice of Filing of Seventh Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)
07/02/2021	<u>2516</u> Declaration re: ( <i>Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). (Annable, Zachery)
07/02/2021	<u>2517</u> Motion for leave ( <i>Debtor's Unopposed Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> ) (related document(s) <u>2247</u> Motion for order to show cause) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
07/02/2021	<u>2518</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2517</u> Motion for leave ( <i>Debtor's Unopposed Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> ) (related document(s) <u>2247</u> Motion for order to show cause)). (Attachments: # <u>1</u> Exhibit 56) (Annable, Zachery)
07/06/2021	<u>2520</u> Withdrawal of claim(s) Claim has been satisfied. Claim: 194 Filed by Creditor Crescent TC Investors, L.P.. (Held, Michael)
07/06/2021	<u>2522</u> Notice of transmittal of appellee supplemental record vol. 1 3:21-CV-00261-L (RE: related document(s) <u>2187</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . , Transmitted: Volume 1, Mini Record. Number of appellant volumes: 8

	Number of appellee volumes: 4. Civil Case Number: 3:21-CV-00261-L (Lindsay) (RE: related document(s) <u>1870</u> Notice of appeal Related document(s) <u>1788</u> Order on motion to compromise controversy. (Blanco, J.)). (Blanco, J.)
07/06/2021	<u>2523</u> Notice of transmittal SEALED DOCUMENTS 3;21-cv00261 (RE: related document(s) <u>2187</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . , Transmitted: Volume 1, Mini Record. Number of appellant volumes: 8 Number of appellee volumes: 4. Civil Case Number: 3:21-CV-00261-L (Lindsay) (RE: related document(s) <u>1870</u> Notice of appeal Related document(s) <u>1788</u> Order on motion to compromise controversy. (Blanco, J.)). (Blanco, J.)
07/06/2021	<u>2524</u> Certificate of service re: <i>Documents Served on June 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2502</u> Application for compensation <i>Twentieth Monthly Application for Compensation and for Reimbursement of Expenses for the Period from May 1, 2021 through May 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 5/1/2021 to 5/31/2021, Fee: \$1,603,754.00, Expenses: \$28,644.51. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/21/2021. filed by Debtor Highland Capital Management, L.P., <u>2503</u> Order Granting Debtor's Motion for Entry of an Order (I) Authorizing the Debtor to (A) Enter into Exit Financing Agreement in Aid of Confirmed Chapter 11 Plan and (B) Incur and Pay Related Fees and Expenses, and (II) Granting Related Relief (related document <u>2229</u> ) Entered on 6/30/2021. (Okafor, M.), <u>2504</u> Order Granting Debtor's Motion for Entry of an Order Authorizing Payment of a Restructuring Fee to James P. Seery, Jr., the Debtor's Chief Executive Officer and Chief Restructuring Officer (related document <u>2395</u> ) Entered on 6/30/2021. (Okafor, M.), <u>2506</u> Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.), <u>2507</u> Notice ( <i>Third Notice of Additional Services Provided by Deloitte Tax LLP</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>551</u> Agreed Order granting application to employ Deloitte Tax LLP as tax services provider nunc pro tunc to the petition date (related document <u>483</u> ) Entered on 3/27/2020. (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2508</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to March 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/06/2021	<u>2525</u> Certificate of service re: <i>Amended Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2510</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2480</u> Application for compensation <i>Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, Fee: \$7,527,021.50, Expenses: \$80,299.92. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 7/15/2021.). Hearing to be held on 7/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2480</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/06/2021	<u>2526</u> Application for compensation <i>Sidley Austin LLP's Nineteenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2021 to 5/31/2021, Fee: \$432,748.80, Expenses: \$4,983.88. Filed by Attorney Juliana Hoffman Objections due by 7/27/2021. (Hoffman, Juliana)
07/07/2021	<u>2527</u> Order granting Debtor's motion to supplement the record in the Contempt Hearing held on June 8, 2021 (related document # <u>2517</u> ) Entered on 7/7/2021. (Okafor, M.)

07/08/2021	<u>2530</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2513</u> Notice of appeal .filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). Appellant Designation due by 07/16/2021.) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
07/08/2021	<u>2531</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2513</u> Notice of appeal . filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). (Whitaker, Sheniqua)
07/08/2021	<u>2532</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-01585-S. (RE: related document(s) <u>2513</u> Notice of appeal . filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2506</u> Order on motion to reconsider). (Whitaker, Sheniqua)
07/08/2021	<u>2533</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2021 through April 30, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
07/08/2021	<u>2534</u> Brief in support filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2494</u> Order (generic)). (Attachments: # <u>1</u> Exhibit 1_ June 8, 2021 Hearing Transcript Excerpts # <u>2</u> Exhibit 2_ June 25, 2021 Hearing Transcript Excerpts # <u>3</u> Exhibit 3_ Subscription and Transfer Agreement # <u>4</u> Exhibit 4_ Members Agreement) (Sbaiti, Mazin)
07/08/2021	<u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)
07/08/2021	<u>2536</u> Certificate of service re: <i>Documents Served on July 2, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2514</u> Application for compensation <i>Nineteenth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: to, Fee: \$88,932.60, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 7/23/2021. filed by Financial Advisor FTI Consulting, Inc., <u>2515</u> Notice ( <i>Notice of Filing of Seventh Amended Exhibit B to Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course of Business</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>75</u> Motion to Authorize /Motion for an Order Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtors in the Ordinary Course of Business Filed by Highland Capital Management, L.P.. Hearing scheduled for 11/19/2019 at 12:00 PM at US Bankruptcy Court, 824 Market St., 5th Fl., Courtroom #6, Wilmington, Delaware. Objections due by 11/12/2019. (Attachments: # 1 Notice # 2 Exhibit A – Proposed Order # 3 Exhibit B – OCP List # 4 Exhibit C – Form of Declaration of Disinterestedness # 5 Certificate of Service and Service List) (O'Neill, James) [ORIGINALLY FILED AS DOCUMENT #76 ON 10/29/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2516</u> Declaration re: ( <i>Declaration of Ordinary Course Professional</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> Document). filed by Debtor Highland Capital Management, L.P., <u>2517</u> Motion for leave ( <i>Debtor's Unopposed Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> ) (related document(s) <u>2247</u> Motion for order to show cause) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>2518</u> Declaration re: ( <i>Declaration of John A. Morris in Support of the Debtor's Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2517</u> Motion for leave ( <i>Debtor's Unopposed</i>



	<i>Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> (related document(s) <u>2247</u> Motion for order to show cause). (Attachments: # 1 Exhibit 56) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/08/2021	<u>2537</u> Motion to sell property free and clear of liens under Section 363(f) ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> ) Fee amount \$188, Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit D # <u>3</u> Exhibit E) (Annable, Zachery)
07/08/2021	Receipt of filing fee for Motion to Sell(19-34054-sgj11) [motion,msell] ( 188.00). Receipt number 28834907, amount \$ 188.00 (re: Doc# <u>2537</u> ). (U.S. Treasury)
07/08/2021	<u>2538</u> Motion to file document under seal. ( <i>Debtor's Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
07/09/2021	<u>2539</u> Notice and Disclosures of Funds Pursuant to Court's Sua Sponte Order filed by Interested Parties Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund (RE: related document(s) <u>2460</u> Order Requiring Disclosures (RE: related document(s) <u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages); <sup>10</sup> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Hogewood, A.)
07/09/2021	<u>2540</u> Support/supplemental document ( <i>Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property</i> ). (Annable, Zachery)
07/09/2021	<u>2541</u> Notice of Disclosures filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2460</u> Order Requiring Disclosures (RE: related document(s) <u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages); <sup>10</sup> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Draper, Douglas)
07/09/2021	<u>2542</u> Notice of Disclosures filed by Creditor Get Good Trust (RE: related document(s) <u>2460</u> Order Requiring Disclosures (RE: related document(s) <u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management,

	<p>L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Draper, Douglas)</p>
07/09/2021	<p><u>2543</u> Notice (<i>Advisors' Disclosures in Response to Sua Sponte Order</i>) filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (RE: related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Rukavina, Davor)</p>
07/09/2021	<p><u>2544</u> Notice and Disclosures of NexPoint RE Entities and HMCS Inc. in Response to Sua Sponte Order filed by Creditor Highland Capital Management Services, Inc., Interested Parties NexPoint Hospitality Trust, NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Finance Inc., NexPoint Real Estate Partners, LLC, NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, VineBrook Homes, Trust, Inc. (RE: related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Attachments: # <u>1</u> Exhibit A) (Drawhorn, Lauren)</p>
07/09/2021	<p><u>2545</u> Amended Notice of Disclosures filed by Creditor The Dugaboy Investment Trust (RE: related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Draper, Douglas)</p>
07/09/2021	<p><u>2546</u> Amended Notice of Disclosures filed by Creditor Get Good Trust (RE: related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a</p>

	<p>direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Draper, Douglas)</p>
07/09/2021	<p><u>2547</u> Notice of Response and Disclosures related to sua sponte Order Requiring Disclosures filed by Interested Parties Highland Dallas Foundation, Inc., Charitable DAF Fund, LP, CLO Holdco, Ltd. (RE: related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);<u>10</u> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Attachments: # <u>1</u> Exhibit 1.Patrick Declaration # <u>2</u> 2.Transcript, June 8, 2021 Hearing, Excerpts # <u>3</u> Exhibit 3.Structure Chart # <u>4</u> Exhibit 4.Kenneth K. Bebozo Memorandum # <u>5</u> Exhibit 5.Certificate of Incorporation - CLO HoldCo, Ltd. # <u>6</u> Exhibit 6.Memorandum of Association of CLO HoldCo, Ltd. # <u>7</u> Exhibit 7.Ordinary Share Registry- CLO HoldCo # <u>8</u> Exhibit 8.Certificate of Registration of Exempted Limited Partnership - DAF Fund # <u>9</u> Exhibit 9.DAF Fund LP Agreement # <u>10</u> Exhibit 10.DAF Fund General Partner Register # <u>11</u> Exhibit 11.Amended and Restated Memorandum of Association of DAF Holdco # <u>12</u> Exhibit 12.Register of Management Shares DAF Holdco # <u>13</u> Exhibit 13.Register of Participating Shares DAF Holdco # <u>14</u> Exhibit 14.Certificate of Formation of DAF GP # <u>15</u> Exhibit 15.Assignment and Assumption of Membership Interests Agreement Dated March 24, 2021 # <u>16</u> Exhibit 16.HDF Certificate of Incorporation # <u>17</u> Exhibit 17.IRS Determination - HDF # <u>18</u> Exhibit 18.Narrative Description of Activities # <u>19</u> 19.RESERVED FOR POSSIBLE SUPPLEMENTATION # <u>20</u> Exhibit 20.HDF Bylaws # <u>21</u> Exhibit 21.HSBF Certificate of Incorporation # <u>22</u> Exhibit 22.IRS Determination - HSBF # <u>23</u> Exhibit 23.SBF Overview Letter # <u>24</u> Exhibit 24.GKCCF Certificate of Formation # <u>25</u> Exhibit 25.GKCCF Letter # <u>26</u> Exhibit 26.Bylaws HKCF # <u>27</u> Exhibit 27.Share Transfer Form # <u>28</u> Exhibit 28.March 25 Resolution - DAF Holdco # <u>29</u> Exhibit 29.April 2 Resolution - CLO HoldCo # <u>30</u> Exhibit 30.Written Resolution - Murphy # <u>31</u> Exhibit 31.Charitable Giving Overview, Grant Summary: 2012-2020 # <u>32</u> Exhibit 32.The Family Place Letter # <u>33</u> Exhibit 33.Cristo Rey Letter # <u>34</u> Exhibit 34.DCAC Letter # <u>35</u> Exhibit 35.Complaint # <u>36</u> Exhibit 36.CLO HoldCo - Register of Directors # <u>37</u> Exhibit 37.DAF Holdco - Register of Directors # <u>38</u> Exhibit 38.Register of Directors - Liberty CLO Holdco, Ltd. # <u>39</u> Exhibit 39.Share Register - Liberty CLO Holdco, Ltd. # <u>40</u> Exhibit 40.Register of Directors - MGM Studios Holdco, Ltd # <u>41</u> Exhibit 41.Share Register - MGM Studios Holdco, Ltd # <u>42</u> Exhibit 42.Register of Directors - HCT Holdco 2 - Ltd. # <u>43</u> Exhibit 43.Share Register - HCT Holdco 2, Ltd.) (Phillips, Louis)</p>
07/09/2021	<p><u>2548</u> Certificate of service re: (Supplemental) 1) First Order Sustaining Debtor's Third Omnibus Objection to Certain No Liability Claims; and 2) Certification of No Objection Regarding Debtor's Third Omnibus Objection to Certain No Liability Claims Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2464</u> Certificate of No Objection Regarding Debtor's Third Omnibus Objection to Certain No-Liability Claims filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2059</u> Objection to claim). filed by Debtor Highland Capital Management, L.P., <u>2468</u> First Order sustaining Debtor's third omnibus objection to certain no liability claims (RE: related document(s)<u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 6/21/2021 (Okafor, M.), <u>2478</u> Certificate of service re: 1) Order Requiring Disclosures; 2) Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 Through December 31, 2020; and 3) Certification of No Objection Regarding Debtor's Third Omnibus Objection to Certain No Liability Claims [No Responses Filed] Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee</p>

	<p>Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);<sup>10</sup> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.), <a href="#">2461</a> Application for compensation (<i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 through December 31, 2020</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$43,270.00, Expenses: \$1,693.45. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, <a href="#">2464</a> Certificate of No Objection Regarding Debtor's Third Omnibus Objection to Certain No-Liability Claims filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">2059</a> Objection to claim). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC, <a href="#">2479</a> Certificate of service re: <i>First Order Sustaining Debtor's Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">2468</a> First Order sustaining Debtor's third omnibus objection to certain no liability claims (RE: related document(s)<a href="#">2059</a> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 6/21/2021 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
07/09/2021	<p><a href="#">2549</a> Amended Notice <i>Second Amended Response of Dugaboy Investment Trust to Order Requiring Disclosures</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s)<a href="#">2541</a> Notice of Disclosures filed by Creditor The Dugaboy Investment Trust (RE: related document(s)<a href="#">2460</a> Order Requiring Disclosures (RE: related document(s)<a href="#">3</a> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);<sup>10</sup> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)), <a href="#">2545</a> Amended Notice of Disclosures filed by Creditor The Dugaboy Investment Trust (RE: related document(s)<a href="#">2460</a> Order Requiring Disclosures (RE: related document(s)<a href="#">3</a> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);<sup>10</sup> (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Draper, Douglas)</p>
07/09/2021	<p><a href="#">2550</a> Certificate of service re: <i>Nineteenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from May 1, 2021 Through May 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">2526</a> Application for compensation <i>Sidley Austin LLP's Nineteenth Monthly Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2021 to 5/31/2021, Fee: \$432,748.80, Expenses: \$4,983.88. Filed by Attorney Juliana Hoffman Objections due by 7/27/2021. filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/12/2021	<p><a href="#">2551</a> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<a href="#">2535</a> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> (<i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale</i></p>



	<p><i>of Certain Property and (ii) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B), <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (<i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i>) Fee amount \$188, Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit D # 3 Exhibit E)). Hearing to be held on 8/4/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2537</u> and for <u>2535</u>, (Annable, Zachery)</p>
07/12/2021	<p><u>2552</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s)<u>2461</u> Application for compensation (<i>Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 through December 31, 2020</i>) for Hayward PLLC, Debtor). (Annable, Zachery)</p>
07/12/2021	<p><u>2553</u> Amended appellant designation of contents for inclusion in record on appeal pursuant to Fed. R. Bankr. P. 8009 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>2452</u> Appellant designation). (Draper, Douglas)</p>
07/12/2021	<p><u>2554</u> Application for compensation (<i>Thirteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from January 1, 2021 through January 31, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 1/1/2021 to 1/31/2021, Fee: \$83,450.00, Expenses: \$5,939.09. Filed by Other Professional Hayward PLLC (Annable, Zachery)</p>
07/12/2021	<p><u>2555</u> Certificate of service re: <i>Order Granting Debtor's Motion to Supplement the Record in the Contempt Hearing Held on June 8, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2527</u> Order granting Debtor's motion to supplement the record in the Contempt Hearing held on June 8, 2021 (related document <u>2517</u>) Entered on 7/7/2021. (Okafor, M.)). (Kass, Albert)</p>
07/12/2021	<p><u>2556</u> Notice of Filing of Supplement and Additional Exhibits filed by Interested Parties CLO Holdco, Ltd., Highland Dallas Foundation, Inc., The Charitable DAF Fund, L.P. (RE: related document(s)<u>2547</u> Notice of Response and Disclosures related to sua sponte Order Requiring Disclosures filed by Interested Parties Highland Dallas Foundation, Inc., Charitable DAF Fund, LP, CLO Holdco, Ltd. (RE: related document(s)<u>2460</u> Order Requiring Disclosures (RE: related document(s)<u>3</u> Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non-Debtor Dondero-Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non-Debtor Dondero-Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.)). (Attachments: # 1 Exhibit 1.Patrick Declaration # 2 2.Transcript, June 8, 2021 Hearing, Excerpts # 3 Exhibit 3.Structure Chart # 4 Exhibit 4.Kenneth K. Bebozo Memorandum # 5 Exhibit 5.Certificate of Incorporation – CLO HoldCo, Ltd. # 6 Exhibit 6.Memorandum of Association of CLO HoldCo, Ltd. # 7 Exhibit 7.Ordinary Share Registry– CLO HoldCo # 8 Exhibit 8.Certificate of Registration of Exempted Limited Partnership – DAF Fund # 9 Exhibit 9.DAF Fund LP Agreement # 10 Exhibit 10.DAF Fund General Partner Register # 11 Exhibit 11.Amended and Restated Memorandum of Association of DAF Holdco # 12 Exhibit 12.Register of Management Shares DAF Holdco # 13 Exhibit 13.Register of Participating Shares DAF Holdco # 14 Exhibit 14.Certificate of Formation of DAF GP # 15 Exhibit 15.Assignment and Assumption of Membership Interests Agreement Dated March 24, 2021 # 16 Exhibit 16.HDF Certificate of Incorporation # 17 Exhibit 17.IRS Determination – HDF # 18 Exhibit 18.Narrative Description of Activities # 19 19.RESERVED FOR POSSIBLE SUPPLEMENTION # 20 Exhibit 20.HDF Bylaws # 21 Exhibit 21.HSBF Certificate of Incorporation # 22 Exhibit 22.IRS Determination – HSBF # 23 Exhibit 23.SBF Overview Letter # 24 Exhibit 24.GKCCF Certificate of Formation # 25</p>

	<p>Exhibit 25.GKCCF Letter # 26 Exhibit 26.Bylaws HKCF # 27 Exhibit 27.Share Transfer Form # 28 Exhibit 28.March 25 Resolution – DAF Holdco # 29 Exhibit 29.April 2 Resolution – CLO HoldCo # 30 Exhibit 30.Written Resolution – Murphy # 31 Exhibit 31.Charitable Giving Overview, Grant Summary: 2012–2020 # 32 Exhibit 32.The Family Place Letter # 33 Exhibit 33.Cristo Rey Letter # 34 Exhibit 34.DCAC Letter # 35 Exhibit 35.Complaint # 36 Exhibit 36.CLO HoldCo – Register of Directors # 37 Exhibit 37.DAF Holdco – Register of Directors # 38 Exhibit 38.Register of Directors – Liberty CLO Holdco, Ltd. # 39 Exhibit 39.Share Register – Liberty CLO Holdco, Ltd. # 40 Exhibit 40.Register of Directors – MGM Studios Holdco, Ltd # 41 Exhibit 41.Share Register – MGM Studios Holdco, Ltd # 42 Exhibit 42.Register of Directors – HCT Holdco 2 – Ltd. # 43 Exhibit 43.Share Register – HCT Holdco 2, Ltd.)). (Attachments: # <u>1</u> Supplement # <u>2</u> Exhibit 19. Letter From The Dallas Foundation # <u>3</u> Exhibit Exhibit 44. Baltimore Sun Article re: Nonprofit Offshore Structures) (Phillips, Louis)</p>
07/13/2021	<p><u>2558</u> Certificate of service re: <i>Documents Served on or Before July 9, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2533</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2021 through April 30, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> (<i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) filed by Debtor Highland Capital Management, L.P., <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (<i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i>) Fee amount \$188, Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit D # <u>3</u> Exhibit E) filed by Debtor Highland Capital Management, L.P., <u>2538</u> Motion to file document under seal. (<i>Debtor's Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
07/14/2021	<p><u>2559</u> Notice (<i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALSUTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # <u>1</u> Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). (Annable, Zachery)</p>
07/14/2021	<p><u>2560</u> PDF with attached Audio File. Court Date &amp; Time [05/18/2021 09:37:03 AM]. File Size [ 4798 KB ]. Run Time [ 00:20:29 ]. (admin).</p>
07/14/2021	<p><u>2561</u> PDF with attached Audio File. Court Date &amp; Time [06/08/2021 02:03:12 PM]. File Size [ 26321 KB ]. Run Time [ 01:52:35 ]. (admin).</p>
07/14/2021	<p><u>2562</u> PDF with attached Audio File. Court Date &amp; Time [06/08/2021 04:04:27 PM]. File Size [ 27205 KB ]. Run Time [ 01:56:13 ]. (admin).</p>
07/14/2021	<p><u>2563</u> Objection to (related document(s): <u>2491</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an</i></p>

	<i>Indemnity Trust Agreement and (ii) Granting Related Relief</i> filed by Debtor Highland Capital Management, L.P.) filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust. (Taylor, Clay)
07/14/2021	<u>2564</u> PDF with attached Audio File. Court Date & Time [06/08/2021 09:34:21 AM]. File Size [ 26132 KB ]. Run Time [ 01:51:38 ]. (admin).
07/14/2021	<u>2565</u> PDF with attached Audio File. Court Date & Time [06/08/2021 11:30:55 AM]. File Size [ 23135 KB ]. Run Time [ 01:38:51 ]. (admin).
07/14/2021	<u>2566</u> PDF with attached Audio File. Court Date & Time [06/10/2021 09:44:23 AM]. File Size [ 31458 KB ]. Run Time [ 02:14:19 ]. (admin).
07/14/2021	<u>2567</u> PDF with attached Audio File. Court Date & Time [06/25/2021 08:48:05 AM]. File Size [ 77915 KB ]. Run Time [ 05:33:38 ]. (admin).
07/14/2021	<u>2568</u> Certificate of service re: <i>Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2540</u> Support/supplemental document ( <i>Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property</i> )). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/14/2021	<u>2569</u> Certificate of service re: ( <i>Supplemental</i> ) 1) <i>Motion of the Debtor for Entry of an Order (I) Authorizing the Sale of Certain Property and (II) Granting Related Relief</i> ; and 2) <i>Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (I) Authorizing the Sale of Certain Property and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P., <u>2540</u> Support/supplemental document ( <i>Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property</i> )). filed by Debtor Highland Capital Management, L.P., <u>2558</u> Certificate of service re: <i>Documents Served on or Before July 9, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2533</u> <i>Notice (Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from April 1, 2021 through April 30, 2021)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> <i>Order granting application to employ Development Specialists, Inc. as Other Professional</i> (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P., <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> )



	<p><i>Fee amount \$188, Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit D # 3 Exhibit E) filed by Debtor Highland Capital Management, L.P., <u>2538</u> Motion to file document under seal. (Debtor's Motion for Entry of an Order Authorizing the Filing under Seal of Exhibits to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC, <u>2568</u> Certificate of service re: Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2540</u> Support/supplemental document (Notice of Filing of Exhibit C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</i></p>
07/14/2021	<p><u>2570</u> Amended application for compensation <i>Sidley Austin LLP's Amended 19th Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2021 to 5/31/2021, Fee: \$432,748.80, Expenses: \$4,983.88. Filed by Attorney Juliana Hoffman Objections due by 8/4/2021. (Hoffman, Juliana)</p>
07/15/2021	<p><u>2571</u> Response opposed to (related document(s): <u>2534</u> Brief filed by Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd., Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
07/15/2021	<p><u>2572</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2491</u> Motion for leave (<i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i>)). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6) (Annable, Zachery)</p>
07/15/2021	<p><u>2573</u> Certificate of service re: <i>1) Notice of Hearing; and 2) Thirteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from January 1, 2021 through January 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2551</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B), <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (<i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i>) Fee amount \$188, Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit D # 3 Exhibit E)). Hearing to be held on 8/4/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2537</u> and for <u>2535</u>, filed by Debtor Highland Capital Management, L.P., <u>2554</u> Application for compensation (<i>Thirteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from January 1, 2021 through January 31, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 1/1/2021 to 1/31/2021, Fee: \$83,450.00, Expenses: \$5,939.09. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC). (Kass, Albert)</p>
07/16/2021	<p><u>2574</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2480</u> Application for compensation <i>Fourth Interim Application for</i></p>



	<i>Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30.</i> . (Pomerantz, Jeffrey)
07/16/2021	<u>2575</u> Witness and Exhibit List filed by Interested Parties James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2491</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> )). (Attachments: # <u>1</u> Objectors Ex. A # <u>2</u> Objectors Ex. B # <u>3</u> Objectors Ex. C # <u>4</u> Objectors Ex. D # <u>5</u> Objectors Ex. E # <u>6</u> Objectors Ex. F # <u>7</u> Objectors Ex. G # <u>8</u> Objectors Ex. H # <u>9</u> Objectors Ex. I # <u>10</u> Objectors Ex. J # <u>11</u> Objectors Ex. K # <u>12</u> Objectors Ex. L # <u>13</u> Objectors Ex. M # <u>14</u> Objectors Ex. N # <u>15</u> Objectors Ex. O) (Taylor, Clay)
07/16/2021	<u>2576</u> Reply to (related document(s): <u>2563</u> Objection filed by Interested Party James Dondero, Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust) ( <i>Debtor's Reply in Support of Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
07/16/2021	<u>2577</u> Joinder by filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2576</u> Reply). (Hoffman, Juliana)
07/16/2021	<u>2578</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2532</u> Notice of docketing notice of appeal/record). Appellee designation due by 07/30/2021. (Sbaiti, Mazin)
07/16/2021	<u>2579</u> Certificate of service re: <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2559</u> Notice ( <i>Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to May 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>176</u> ORDER PURSUANT TO SECTIONS 105(A), 327, 328, AND 330 OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTOR TO RETAIN, EMPLOY, AND COMPENSATE CERTAIN PROFESSIONALS UTILIZED BY THE DEBTORS IN THE ORDINARY COURSE OF BUSINESS (Related Doc # 76, 99, 162) Order Signed on 11/26/2019. (Attachments: # 1 Exhibit A) (DRG) [ORIGINALLY FILED AS DOCUMENT #169 ON 11/26/2019 IN U.S. BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE] (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/19/2021	<u>2580</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s) <u>2578</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2532</u> Notice of docketing notice of appeal/record). Appellee designation due by 07/30/2021.) Responses due by 7/21/2021. (Blanco, J.)
07/19/2021	<u>2581</u> PDF with attached Audio File. Court Date & Time [07/19/2021 09:30:44 AM]. File Size [ 19741 KB ]. Run Time [ 01:24:28 ]. (admin).
07/19/2021	<u>2582</u> Court admitted exhibits date of hearing July 19, 2021 (RE: related document(s) <u>2491</u> Motion for leave (Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (COURT ADMITTED PLAINTIFF'S/DEBTOR'S EXHIBITS #1, #2, #3, #4, #5 & #6 BY JOHN

	MORRIS AND DEFENDANT/RESPONDENT EXHIBIT'S #A, #B, #C, #D, #E, #F, #G, #H, #I, #J, #K, #L, #M, #N & #O BY DAVOR RUKAVINA) (Edmond, Michael)
07/19/2021	<u>2583</u> Hearing held on 7/19/2021. (RE: related document(s) <u>2480</u> Application for compensation Fourth Interim Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, filed by Attorney Jeffrey Nathan Pomerantz). (Appearances: J. Pomerantz and J. Morris for Debtor; C. Taylor for J. Dondero; D. Draper for Dugaboy Trust; D. Rukavina for Advisors; M. Clemente for UCC; L. Lambert for UST. Nonevidentiary hearing. Application granted. Counsel to upload order.) (Edmond, Michael)
07/19/2021	<u>2584</u> Hearing held on 7/19/2021. (RE: related document(s) <u>2491</u> Motion for leave (Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomerantz and J. Morris for Debtor; C. Taylor for J. Dondero; D. Draper for Dugaboy Trust; D. Rukavina for Advisors; M. Clemente for UCC; L. Lambert for UST. Evidentiary hearing. Motion granted. Counsel to upload order.) (Edmond, Michael)
07/19/2021	<u>2585</u> Application for compensation <i>Sidley Austin LLP's Sixth Interim Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2021 to 5/31/2021, Fee: \$1,527,522.75, Expenses: \$32,957.78. Filed by Attorney Juliana Hoffman Objections due by 8/9/2021. (Hoffman, Juliana)
07/19/2021	<u>2586</u> Application for compensation of <i>Teneo Capital, LLC as Litigation Advisor</i> for Official Committee of Unsecured Creditors, Other Professional, Period: 4/15/2021 to 6/30/2021, Fee: \$80,000.00, Expenses: \$118.89. Filed by Attorney Juliana Hoffman Objections due by 8/9/2021. (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit) (Hoffman, Juliana)
07/19/2021	<u>2587</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Parties CLO Holdco, Ltd., The Charitable DAF Fund, L.P. (RE: related document(s) <u>2578</u> Appellant designation). (Sbaiti, Mazin)
07/20/2021	<u>2588</u> Order granting fourth interim application for compensation (related document # <u>2480</u> ) granting for Jeffrey Nathan Pomerantz of Pachulski Stang Ziehl & Jones LLP , fees awarded: \$7527021.50, expenses awarded: \$80299.92 Entered on 7/20/2021. (Okafor, M.)
07/20/2021	<u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendants: Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A—Proposed Order) (Annable, Zachery)
07/20/2021	<u>2590</u> Declaration re: ( <i>Declaration of John A. Morris in Support of Debtor's Motion for Entry of an Order Approving Settlement Pursuant to Bankruptcy Rule 9019 and Authorizing Actions Consistent Therewith</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendan). (Attachments: # <u>1</u> Exhibit 1—Settlement Agreement) (Annable, Zachery)
07/20/2021	<u>2592</u> Notice of docketing APPELLANT SUPPLEMENTAL record on appeal. 3:21-CV-00879-K (RE: related document(s) <u>2149</u> Notice of appeal filed by Interested

	Party James Dondero (RE: related document(s) <u>2083</u> Order on motion to recuse Judge). Appellant Designation due by 04/15/2021. (Attachments: # 1 Exhibit)) (Blanco, J.)
07/20/2021	<u>2593</u> Request for transcript regarding a hearing held on 7/19/2021. The requested turn-around time is hourly. (Edmond, Michael)
07/20/2021	<u>2594</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendants: Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 9/13/2021 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2589</u> , (Annable, Zachery)
07/20/2021	<u>2595</u> Application for compensation ( <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from February 1, 2021 through February 28, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 2/1/2021 to 2/28/2021, Fee: \$55,885.00, Expenses: \$3,218.35. Filed by Other Professional Hayward PLLC (Annable, Zachery)
07/20/2021	<u>2596</u> Declaration re: ( <i>Declaration of Alexander McGeoch in Support of Proposed Agreed Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel ( <i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> )). (Annable, Zachery)
07/20/2021	<u>2597</u> Certificate of service re: 1) <i>Nineteenth Monthly Application of Sidley Austin LLP for Allowance of Compensation and Reimbursement of Expenses for the Period from May 1, 2021 Through May 31, 2021</i> ; 2) <i>Debtor's Reply to Plaintiffs' Post-Hearing Brief Regarding Motion for Modification of Order</i> ; and 3) <i>Debtor's Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on July 19, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2570</u> Amended application for compensation <i>Sidley Austin LLP's Amended 19th Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 5/1/2021 to 5/31/2021, Fee: \$432,748.80, Expenses: \$4,983.88. Filed by Attorney Juliana Hoffman Objections due by 8/4/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2571</u> Response opposed to (related document(s): <u>2534</u> Brief filed by Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd., Creditor The Charitable DAF Fund, L.P., Interested Party The Charitable DAF Fund, L.P.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2572</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2491</u> Motion for leave ( <i>Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i> )). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/21/2021	<u>2598</u> Transcript regarding Hearing Held 07/19/2021 (59 pages) RE: Debtor's Motion for Entry of Order Authorizing Creation of Indemnity Sub-Trust (2491); Pachulski Stang Fourth Interim Fee Application (2480). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/19/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, <a href="mailto:kathyrehlingtranscripts@gmail.com">kathyrehlingtranscripts@gmail.com</a> , Telephone number 972-786-3063. (RE: related document(s) <u>2583</u> Hearing held on 7/19/2021. (RE: related document(s) <u>2480</u> Application for compensation Fourth Interim Application for Compensation and for Reimbursement of

	<p>Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from December 1, 2020 through April 30, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 12/1/2020 to 4/30/2021, filed by Attorney Jeffrey Nathan Pomerantz). (Appearances: J. Pomerantz and J. Morris for Debtor; C. Taylor for J. Dondero; D. Draper for Dugaboy Trust; D. Rukavina for Advisors; M. Clemente for UCC; L. Lambert for UST. Nonevidentiary hearing. Application granted. Counsel to upload order.), 2584 Hearing held on 7/19/2021. (RE: related document(s)<a href="#">2491</a> Motion for leave (Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomerantz and J. Morris for Debtor; C. Taylor for J. Dondero; D. Draper for Dugaboy Trust; D. Rukavina for Advisors; M. Clemente for UCC; L. Lambert for UST. Evidentiary hearing. Motion granted. Counsel to upload order.)). Transcript to be made available to the public on 10/19/2021. (Rehling, Kathy)</p>
07/21/2021	<p><a href="#">2599</a> Order granting Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief (related document # <a href="#">2491</a>) Entered on 7/21/2021. (Okafor, M.)</p>
07/21/2021	<p><a href="#">2600</a> Certificate of service re: <i>1) Debtor's Reply in Support of Motion for Entry of an Order (I) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry Into an Indemnity Trust Agreement and (II) Granting Related Relief; and 2) The Official Committee of Unsecured Creditors' Response and Joinder to the Debtor's Response to the Objection to Debtor's Motion for Entry of an Order (I) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry Into an Indemnity Trust Agreement and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">2576</a> Reply to (related document(s): <a href="#">2563</a> Objection filed by Interested Party James Dondero, Interested Party Highland Capital Management Fund Advisors, L.P., Interested Party NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust) (<i>Debtor's Reply in Support of Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief</i>) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <a href="#">2577</a> Joinder by filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<a href="#">2576</a> Reply). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/22/2021	<p><a href="#">2601</a> Certificate of service re: <i>1) Sixth Interim Fee Application of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from March 1, 2021 Through and Including May 31, 2021; and 2) First Consolidated Monthly Fee Application of Teneo Capital, LLC as Litigation Advisor for the Official Committee of Unsecured Creditors for the Period from April 15, 2021 to and Including June 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">2585</a> Application for compensation <i>Sidley Austin LLP's Sixth Interim Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2021 to 5/31/2021, Fee: \$1,527,522.75, Expenses: \$32,957.78. Filed by Attorney Juliana Hoffman Objections due by 8/9/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <a href="#">2586</a> Application for compensation of <i>Teneo Capital, LLC as Litigation Advisor</i> for Official Committee of Unsecured Creditors, Other Professional, Period: 4/15/2021 to 6/30/2021, Fee: \$80,000.00, Expenses: \$118.89. Filed by Attorney Juliana Hoffman Objections due by 8/9/2021. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)</p>
07/22/2021	<p><a href="#">2602</a> Certificate of service re: <i>(Supplemental) 1) Debtor's Third Omnibus Objection to Certain No Liability Claims; 2) Certification of No Objection Regarding Debtor's Third Omnibus Objection to Certain No Liability Claims; and 3) First Order Sustaining Debtor's Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<a href="#">2059</a> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello;</p>



Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P., 2091 Certificate of service re: *Debtor's Third Omnibus Objection to Certain No Liability Claims* Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)2059 Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert) Modified on 3/24/2021. filed by Claims Agent Kurtzman Carson Consultants LLC, 2464 Certificate of No Objection Regarding Debtor's Third Omnibus Objection to Certain No–Liability Claims filed by Debtor Highland Capital Management, L.P. (RE: related document(s)2059 Objection to claim). filed by Debtor Highland Capital Management, L.P., 2468 First Order sustaining Debtor's third omnibus objection to certain no liability claims (RE: related document(s)2059 Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 6/21/2021 (Okafor, M.), 2478 Certificate of service re: 1) *Order Requiring Disclosures*; 2) *Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 Through December 31, 2020*; and 3) *Certification of No Objection Regarding Debtor's Third Omnibus Objection to Certain No Liability Claims [No Responses Filed]* Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)2460 Order Requiring Disclosures (RE: related document(s)3 Chapter 11 Voluntary Petition. Fee Amount \$1717. filed by Debtor Highland Capital Management, L.P.). Within 21 days of the entry of this Order, the Non–Debtor Dondero–Related Entities named in this Order shall file a Notice in this case disclosing thereon: (a) who owns the entity (showing percentages);10 (b) whether Mr. Dondero or his family trusts have either a direct or indirect ownership interest in the entity and, if so, what percentage of ultimate ownership; (c) who are the officers, directors, managers and/or trustees of the Non–Debtor Dondero–Related Entity; and (d) whether the entity is a creditor of the Debtor (explaining in reasonable detail the amount and substance of its claims). Entered on 6/18/2021 (Okafor, M.), 2461 Application for compensation (*Twelfth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from December 1, 2020 through December 31, 2020*) for Hayward PLLC, Debtor's Attorney, Period: 12/1/2020 to 12/31/2020, Fee: \$43,270.00, Expenses: \$1,693.45. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, 2464 Certificate of No Objection Regarding Debtor's Third Omnibus Objection to Certain No–Liability Claims filed by Debtor Highland Capital Management, L.P. (RE: related document(s)2059 Objection to claim). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC, 2479 Certificate of service re: *First Order Sustaining Debtor's Third Omnibus Objection to Certain No Liability Claims* Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)2468 First Order sustaining Debtor's third omnibus objection to certain no liability claims (RE: related document(s)2059 Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 6/21/2021 (Okafor, M.)). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)

07/23/2021

2603 Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s)2502 Application for compensation *Twentieth Monthly Application for*

000390

	<i>Compensation and for Reimbursement of Expenses for the Period from May 1, 2021 through May 31, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 5/1/2021 to 5/31/2021.</i> . (Pomerantz, Jeffrey)
07/23/2021	<u>2604</u> Order granting motion to seal exhibits (related document # <u>2538</u> ) Entered on 7/23/2021. (Okafor, M.)
07/23/2021	<u>2605</u> Certificate of service re: <i>Documents Served on July 20, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2588</u> Order granting fourth interim application for compensation (related document <u>2480</u> ) granting for Jeffrey Nathan Pomerantz of Pachulski Stang Ziehl & Jones LLP, fees awarded: \$7527021.50, expenses awarded: \$80299.92 Entered on 7/20/2021. (Okafor, M.), <u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendants: Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order) filed by Debtor Highland Capital Management, L.P., <u>2590</u> Declaration re: <i>(Declaration of John A. Morris in Support of Debtor's Motion for Entry of an Order Approving Settlement Pursuant to Bankruptcy Rule 9019 and Authorizing Actions Consistent Therewith)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendan). (Attachments: # 1 Exhibit 1—Settlement Agreement) filed by Debtor Highland Capital Management, L.P., <u>2594</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendants: Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). Hearing to be held on 9/13/2021 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2589</u> , filed by Debtor Highland Capital Management, L.P., <u>2595</u> Application for compensation ( <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from February 1, 2021 through February 28, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 2/1/2021 to 2/28/2021, Fee: \$55,885.00, Expenses: \$3,218.35. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, <u>2596</u> Declaration re: <i>(Declaration of Alexander McGeoch in Support of Proposed Agreed Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>604</u> Application to employ Hunton Andrews Kurth LLP as Special Counsel ( <i>Debtor's Application for Entry of an Order Authorizing the Retention and Employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the Petition Date</i> )). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/23/2021	<u>2606</u> Certificate of service re: <i>Order Approving Debtor's Motion for Entry of an Order (I) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry Into an Indemnity Trust Agreement and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2599</u> Order granting Debtor's Motion for Entry of an Order (i) Authorizing the (A) Creation of an Indemnity Subtrust and (B) Entry into an Indemnity Trust Agreement and (ii) Granting Related Relief (related document <u>2491</u> ) Entered on 7/21/2021. (Okafor, M.)). (Kass, Albert)
07/26/2021	<u>2607</u> Stipulation by Highland Capital Management, L.P. and Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2345</u> Order to set hearing). (Annable,

	Zachery)
07/26/2021	<u>2608</u> Notice to take deposition of Wick Phillips Gould & Martin, LLP filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
07/27/2021	<u>2609</u> Application for compensation ( <i>Fifth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from January 1, 2021 through January 31, 2021</i> ) for Deloitte Tax LLP, Other Professional, Period: 1/1/2021 to 1/31/2021, Fee: \$11,549.20, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)
07/27/2021	<u>2610</u> Application for compensation ( <i>Sixth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from February 1, 2021 through February 28, 2021</i> ) for Deloitte Tax LLP, Other Professional, Period: 2/1/2021 to 2/28/2021, Fee: \$4,933.20, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)
07/27/2021	<u>2611</u> Application for compensation <i>Sixth Interim Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2021 to 5/31/2021, Fee: \$339,167.25, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 8/17/2021. (Hoffman, Juliana)
07/27/2021	<u>2612</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2514</u> Application for compensation <i>Nineteenth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: to, Fee: \$88,932.60, Expenses: \$0.). (Hoffman, Juliana)
07/27/2021	<u>2613</u> Motion for leave to <i>File a Brief in Excess of Twenty-Five Pages</i> Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 8/17/2021. (Attachments: # <u>1</u> Proposed Order) (Montgomery, Paige)
07/27/2021	<u>2614</u> Motion for expedited hearing(related documents <u>2613</u> Motion for leave) <i>Motion for Expedited Consideration on The Official Committee of Unsecured Creditors' Emergency Motion for Leave to File a Brief in Excess of Twenty-Five Pages</i> Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
07/28/2021	<u>2615</u> Objection to (related document(s): <u>2613</u> Motion for leave to <i>File a Brief in Excess of Twenty-Five Pages</i> filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2614</u> Motion for expedited hearing(related documents <u>2613</u> Motion for leave) <i>Motion for Expedited Consideration on The Official Committee of Unsecured Creditors' Emergency Motion for Leave to File a Brief in Excess of Twenty-Five Pages</i> filed by Creditor Committee Official Committee of Unsecured Creditors) <i>Initial Objection To Motion For Leave And To Emergency Consideration Of The Motion For Leave</i> filed by Interested Party Highland Dallas Foundation, Inc., Respondent Mark Patrick. (Phillips, Louis)
07/28/2021	<u>2616</u> Support/supplemental document ( <i>Notice of Filing of Exhibits B and C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> ). (Attachments: # <u>1</u> Exhibit B--Redacted PetroCap Partnership Agreement # <u>2</u> Exhibit C--Redacted SLP Partnership Agreement) (Annable, Zachery)
07/28/2021	<u>2617</u> <b>SEALED document regarding: Exhibit B: PetroCap Partnership Agreement per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2604</u> Order on motion to seal). (Annable, Zachery)

07/28/2021	<b>2618 SEALED document regarding: Exhibit C: SLP Partnership Agreement per court order</b> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2604</u> Order on motion to seal). (Annable, Zachery)
07/28/2021	<u>2619</u> Certificate of service re: <i>Order Granting Debtor's Motion for Entry of an Order Authorizing the Filing Under Seal of Exhibits to the Motion of the Debtor for Entry of an Order (I) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2604</u> Order granting motion to seal exhibits (related document <u>2538</u> ) Entered on 7/23/2021. (Okafor, M.)). (Kass, Albert)
07/29/2021	<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit Exhibits 1 to 15) (Montgomery, Paige)
07/29/2021	<u>2621</u> Objection to (related document(s): <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property filed by Debtor Highland Capital Management, L.P.) filed by Interested Party NexPoint Advisors, L.P.. (Attachments: # <u>1</u> Exhibit A – NexPoint PSA # <u>2</u> Exhibit B – PSA Redline)</i> (Berghman, Thomas)
07/29/2021	<u>2623</u> Addendum to record on appeal. Reason for supplemental record: United States Court of Appeals Order 00515933197. Circuit Case 21–10449, Civil Case Number: 3:21–cv–00538–N (RE: related document(s) <u>1957</u> Notice of appeal . (Whitaker, Sheniqua)
07/29/2021	<u>2624</u> Transmittal of addendum to record on appeal to U.S. District Court . Number of appellee records: 5 Sealed Documents (RE: related document(s) 2623 Addendum to record on appeal. Reason for supplemental record: United States Court of Appeals Order 00515933197. Circuit Case 21–10449, Civil Case Number: 3:21–cv–00538–N (RE: related document(s) <u>1957</u> Notice of appeal .) (Whitaker, Sheniqua)
07/29/2021	<u>2625</u> Notice of docketing supplemental record on appeal. (RE: related document(s) <u>1957</u> Notice of appeal . (RE: related document(s) <u>1943</u> Order confirming chapter 11 plan). Civil Case 3:21–CV–00538–N, Circuit Court Case 21–10449 (Whitaker, Sheniqua)
07/29/2021	<u>2626</u> Objection to (related document(s): <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> filed by Debtor Highland Capital Management, L.P.) filed by Interested Party NexPoint Advisors, L.P.. (Attachments: # <u>1</u> Exhibit A – PSA # <u>2</u> Exhibit B – PSA Redline) (Berghman, Thomas)
07/29/2021	<u>2627</u> Order Granting The Official Committee of Unsecured Creditors' Motion for Leave to File a Brief in Excess of Twenty–Five Page (related document # <u>2613</u> ) Entered on 7/29/2021. (Okafor, M.)
07/29/2021	<u>2628</u> Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2021 filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Hayward, Melissa)
07/29/2021	<u>2629</u> Chapter 11 Post–Confirmation Report for the Quarter Ending: June 30, 2021 filed by Debtor Highland Capital Management, L.P.. (Hayward, Melissa)
07/29/2021	<u>2630</u> Certificate of service re: <i>1) Stipulation (A) Amending Scheduling Order and (B) Consolidating and Resolving Certain Matters; and 2) Debtors Amended Notice of Rule 30(b)(6) Deposition to Wick Phillips Gould &amp; Martin, LLP</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2607</u> Stipulation by Highland



	Capital Management, L.P. and Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2345</u> Order to set hearing). filed by Debtor Highland Capital Management, L.P., <u>2608</u> Notice to take deposition of Wick Phillips Gould & Martin, LLP filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
07/30/2021	<u>2631</u> Notice to take deposition of Mark Patrick filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
07/30/2021	<u>2632</u> Application for compensation <i>Twenty-First Monthly Application for Compensation and for Reimbursement of Expenses for the Period from June 1, 2021 through June 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2021 to 6/30/2021, Fee: \$1,200,401.75, Expenses: \$19,123.23. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/20/2021. (Pomerantz, Jeffrey)
07/30/2021	<u>2633</u> Witness and Exhibit List filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property, <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief.</i> (Berghman, Thomas)
07/30/2021	<u>2634</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS.</b> ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property.</i> (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15) (Annable, Zachery)
07/30/2021	<u>2635</u> Witness and Exhibit List filed by Interested Party PetroCap, LLC (RE: related document(s) <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief.</i> (Schultz, Sarah)
07/30/2021	<u>2636</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) ( <i>Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief.</i> (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15) (Annable, Zachery)
07/30/2021	<u>2637</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Exhibit Exhibits 1 to 15)). Hearing to be held on 8/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2620</u> , (Montgomery, Paige)
07/30/2021	<u>2638</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2513</u> Notice of appeal, (Annable, Zachery).

07/30/2021	<p><u>2639</u> Certificate of service re: <i>[Customized for Rule 3001(e)(2) or 3001(e)(4)] Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket No. 2263]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2263</u> Assignment/Transfer of Claim. Fee Amount \$156. Transfer Agreement 3001 (e) 2 Transferors: HarbourVest 2017 Global Fund L.P. (Claim No. 143); HarbourVest 2017 Global AIF L.P. (Claim No. 147); HarbourVest Dover Street IX Investment L.P. (Claim No. 150); HV International VIII Secondary L.P. (Claim No. 153); HarbourVest Skew Base AIF L.P. (Claim No. 154); HarbourVest Partners L.P. (Claim No. 149) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. filed by Creditor Muck Holdings LLC). (Kass, Albert)</p>
07/30/2021	<p><u>2640</u> Certificate of service re: 1) <i>Fifth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from January 1, 2021 Through January 31, 2021</i>; 2) <i>Sixth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from February 1, 2021 Through February 28, 2021</i>; and 3) <i>Sixth Interim Fee Application of FTI Consulting, Inc. as Financial Advisor for the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses for the Period from March 1, 2021 Through and Including May 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2609</u> Application for compensation (<i>Fifth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from January 1, 2021 through January 31, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 1/1/2021 to 1/31/2021, Fee: \$11,549.20, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP, <u>2610</u> Application for compensation (<i>Sixth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from February 1, 2021 through February 28, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 2/1/2021 to 2/28/2021, Fee: \$4,933.20, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP, <u>2611</u> Application for compensation <i>Sixth Interim Application for Compensation for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2021 to 5/31/2021, Fee: \$339,167.25, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 8/17/2021. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)</i></p>
08/01/2021	<p><u>2641</u> Motion to compel Mediation. Filed by Interested Party James Dondero (Taylor, Clay)</p>
08/02/2021	<p><u>2642</u> Amended Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Exhibit Exhibits 1 to 15)). Hearing to be held on 8/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2620</u>. (Attachments: # <u>1</u> Exhibit) (Hoffman, Juliana)</p>
08/02/2021	<p><u>2643</u> Application for compensation (<i>Fourth Monthly Fee Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 3/1/2021 to 3/31/2021, Fee: \$37153.08, Expenses: \$30.90. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 8/23/2021. (Hesse, Gregory)</p>
08/02/2021	<p><u>2644</u> Application for compensation (<i>Fifth Monthly Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 4/1/2021 to 4/30/2021, Fee: \$41,936.40, Expenses: \$573.69. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 8/23/2021. (Hesse, Gregory)</p>
08/02/2021	<p><u>2645</u> Application for compensation (<i>Sixth Monthly Application</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 5/1/2021 to 5/31/2021, Fee: \$35,841.24, Expenses: \$0.00. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 8/23/2021. (Hesse, Gregory)</p>

08/02/2021	<u>2646</u> Application for compensation ( <i>Seventh Monthly Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 6/1/2021 to 6/30/2021, Fee: \$78,401.16, Expenses: \$0.00. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 8/23/2021. (Hesse, Gregory)
08/02/2021	<u>2647</u> Certificate of service re: 1) <i>The Official Committee of Unsecured Creditors' Emergency Motion for Leave to File a Brief in Excess of Twenty-Five Pages</i> ; 2) <i>Motion for Expedited Consideration on the Official Committee of Unsecured Creditors' Emergency Motion for Leave to File a Brief in Excess of Twenty-Five Pages</i> ; and 3) <i>Notice of Filing of Exhibits B and C to the Motion of the Debtor for Entry of an Order (I) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2613</u> <i>Motion for leave to File a Brief in Excess of Twenty-Five Pages</i> Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 8/17/2021. (Attachments: # 1 Proposed Order) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2614</u> <i>Motion for expedited hearing</i> (related documents <u>2613</u> <i>Motion for leave</i> ) <i>Motion for Expedited Consideration on The Official Committee of Unsecured Creditors' Emergency Motion for Leave to File a Brief in Excess of Twenty-Five Pages</i> Filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2616</u> <i>Support/supplemental document (Notice of Filing of Exhibits B and C to the Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2537</u> <i>Motion to sell property free and clear of liens under Section 363(f) (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief)</i> . (Attachments: # 1 Exhibit B--Redacted PetroCap Partnership Agreement # 2 Exhibit C--Redacted SLP Partnership Agreement) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/02/2021	<u>2648</u> Reply to (related document(s): <u>2621</u> <i>Objection</i> filed by Interested Party NexPoint Advisors, L.P.) ( <i>Debtor's Reply in Support of Its Motion for Entry of an Order (i) Authorizing the Sale of Certain Real Property and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
08/02/2021	<u>2649</u> Reply to (related document(s): <u>2626</u> <i>Objection</i> filed by Interested Party NexPoint Advisors, L.P.) ( <i>Debtor's Reply in Support of Its Motion for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
08/02/2021	<u>2650</u> Joinder by <i>the Official Committee of Unsecured Creditors to the Debtor's Reply and Response</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2648</u> <i>Reply</i> , <u>2649</u> <i>Reply</i> ). (Hoffman, Juliana)
08/02/2021	<u>2651</u> Application for compensation <i>Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2021 to 6/30/2021, Fee: \$464,954.40, Expenses: \$12,211.68. Filed by Attorney Juliana Hoffman Objections due by 8/23/2021. (Hoffman, Juliana)
08/02/2021	<u>2652</u> <i>Motion to shorten time to Response Deadline to Rule 2004 Motion</i> (RE: related document(s) <u>2620</u> <i>Motion for examination</i> ) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 8/23/2021. (Attachments: # <u>1</u> Proposed Order) (Reid, Penny)
08/02/2021	<u>2653</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2636</u> <i>List (witness/exhibit/generic)</i> ). (Attachments: # <u>1</u> Exhibit 18) (Annable, Zachery)

08/02/2021	<u>2654</u> Motion for expedited hearing(related documents <u>2652</u> Motion to extend/shorten time) Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Proposed Order) (Reid, Penny)
08/03/2021	<u>2655</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2554</u> Application for compensation ( <i>Thirteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from January 1, 2021 through January 31, 2021</i> ) for Hayward PLLC, Debto). (Annable, Zachery)
08/03/2021	<u>2656</u> Amended Reply to (related document(s): <u>2621</u> Objection filed by Interested Party NexPoint Advisors, L.P., <u>2648</u> Reply filed by Debtor Highland Capital Management, L.P.) ( <i>Debtor's Amended Reply in Support of Its Motion for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)
08/03/2021	<u>2657</u> Amended Motion to compel Mediation. (related document: <u>2641</u> ) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Exhibit UST Questionnaire and Information Sheet (Ex A) # <u>2</u> Exhibit Proposed Order (Ex B)) (Taylor, Clay)
08/03/2021	<u>2658</u> Certificate of service re: <i>Documents Served on July 29, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit Exhibits 1 to 15) filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2627</u> Order Granting The Official Committee of Unsecured Creditors' Motion for Leave to File a Brief in Excess of Twenty-Five Page (related document <u>2613</u> ) Entered on 7/29/2021. (Okafor, M.), <u>2628</u> Notice of Statement of Amounts Paid to Ordinary Course Professionals for the Period from October 16, 2019 to June 30, 2021 filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>2629</u> Chapter 11 Post-Confirmation Report for the Quarter Ending: June 30, 2021 filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/03/2021	<u>2659</u> Objection to (related document(s): <u>1888</u> Application for administrative expenses filed by Interested Party NexBank, Interested Party NexBank Capital Inc., Interested Party NexBank Securities Inc., Interested Party NexBank Title Inc.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
08/04/2021	<u>2660</u> Memorandum Opinion And Order Holding Certain Parties And Their Attorneys In Civil Contempt of Court For Violation Of Bankruptcy Court Orders (RE: related document(s) <u>2247</u> Motion for order to show cause filed by Debtor Highland Capital Management, L.P.). Entered on 8/4/2021 (Okafor, M.)
08/04/2021	<u>2661</u> Motion to appear pro hac vice for Thomas P. Cimino. Fee Amount \$100 Filed by Interested Party James Dondero (Taylor, Clay)
08/04/2021	<u>2662</u> Motion to appear pro hac vice for Michael M. Eidelman. Fee Amount \$100 Filed by Interested Party James Dondero (Taylor, Clay)
08/04/2021	<u>2663</u> Motion to appear pro hac vice for David L. Kane. Fee Amount \$100 Filed by Interested Party James Dondero (Taylor, Clay)
08/04/2021	<u>2664</u> Motion to appear pro hac vice for William W. Thorsness. Fee Amount \$100 Filed by Interested Party James Dondero (Taylor, Clay)
08/04/2021	<u>2665</u> Motion to appear pro hac vice for Douglas J. Lipke. Fee Amount \$100 Filed by Interested Party James Dondero (Taylor, Clay)



08/04/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28893951, amount \$ 100.00 (re: Doc# <u>2661</u> ). (U.S. Treasury)
08/04/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28893951, amount \$ 100.00 (re: Doc# <u>2662</u> ). (U.S. Treasury)
08/04/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28893951, amount \$ 100.00 (re: Doc# <u>2663</u> ). (U.S. Treasury)
08/04/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28893951, amount \$ 100.00 (re: Doc# <u>2664</u> ). (U.S. Treasury)
08/04/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28893951, amount \$ 100.00 (re: Doc# <u>2665</u> ). (U.S. Treasury)
08/04/2021	<u>2666</u> PDF with attached Audio File. Court Date & Time [08/04/2021 08:49:40 AM]. File Size [ 28979 KB ]. Run Time [ 02:03:57 ]. (admin).
08/04/2021	<u>2667</u> Court admitted exhibits date of hearing August 4, 2021 (RE: related document(s) <u>2535</u> Motion to sell Property: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS. (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (COURT ADMITTED EXHIBIT'S #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14 & #15 THAT APPEAR AT DEOC. 2634 IN REGARDS TO MAPLE HOLDINGS BY JOHN MORRIS) (Edmond, Michael)
08/04/2021	<u>2668</u> Court admitted exhibits date of hearing August 4, 2021 (RE: related document(s) <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., COURT ADMITTED EXHIBIT'S #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17 THAT APPEAR AT DOC. #2636 AND EXHIBIT #18 THAT APPEAR AT DOC. #2653 FOR PETROCAP III; BY JOHN MORRIS) (Edmond, Michael)
08/04/2021	<u>2669</u> Hearing held on 8/4/2021. (RE: related document(s) <u>1888</u> Application for administrative expenses, filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; L. Drawhorn for NexBank; M. Clemente for UCC; T. Berghman and J. Vasek for NexPoint Advisors; C. Taylor and J. Eidelman for J. Dondero; D. Draper for Dugaboy Trust; S. Shultz for PetroCap III purchaser. Nonevidentiary status conference. Parties expect to submit an agreed scheduling order shortly.) (Edmond, Michael)
08/04/2021	<u>2670</u> Hearing held on 8/4/2021. (RE: related document(s) <u>2535</u> Motion to sell Property: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; L. Drawhorn for NexBank; M. Clemente for UCC; T. Berghman and J. Vasek for NexPoint Advisors; C. Taylor and J. Eidelman for J. Dondero; D. Draper for Dugaboy Trust; S. Shultz for PetroCap III purchaser. Evidentiary hearing. Objections and counter-bids withdrawn. Motion approved. Counsel to upload order.) (Edmond, Michael)

08/04/2021	2671 Hearing held on 8/4/2021. (RE: related document(s) <u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; L. Drawhorn for NexBank; M. Clemente for UCC; T. Berghman and J. Vasek for NexPoint Advisors; C. Taylor and J. Eidelman for J. Dondero; D. Draper for Dugaboy Trust; S. Shultz for PetroCap III purchaser. Evidentiary hearing. Objections and counter-bids withdrawn. Motion approved. Counsel to upload order.) (Edmond, Michael)
08/04/2021	<u>2672</u> Request for transcript regarding a hearing held on 8/4/2021. The requested turn-around time is hourly. (Edmond, Michael)
08/04/2021	<u>2673</u> Notice of appeal . Fee Amount \$298 filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2599</u> Order on motion for leave). Appellant Designation due by 08/18/2021. (Attachments: # <u>1</u> Exhibit A)(Vasek, Julian)
08/04/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28895617, amount \$ 298.00 (re: Doc# <u>2673</u> ). (U.S. Treasury)
08/04/2021	<u>2674</u> Certificate of service re: <i>Documents Served on July 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2631</u> Notice to take deposition of Mark Patrick filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2632</u> Application for compensation <i>Twenty-First Monthly Application for Compensation and for Reimbursement of Expenses for the Period from June 1, 2021 through June 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2021 to 6/30/2021, Fee: \$1,200,401.75, Expenses: \$19,123.23. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 8/20/2021. filed by Debtor Highland Capital Management, L.P., <u>2634</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2535</u> Motion to sell Property <b>NOTE: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS. (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15) filed by Debtor Highland Capital Management, L.P., <u>2636</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2537</u> Motion to sell property free and clear of liens under Section 363(f) (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15) filed by Debtor Highland Capital Management, L.P., <u>2637</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Exhibit Exhibits 1 to 15)). Hearing to be held on 8/19/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2620</u>, filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2638</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2513</u> Notice of appeal,. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</b>
08/05/2021	<u>2675</u> Transcript regarding Hearing Held 08/04/2021 (83 pages) RE: Status Conference re: Application for Administrative Expenses; Motions to Sell. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/3/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling,

kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 2669 Hearing held on 8/4/2021. (RE: related document(s) 1888 Application for administrative expenses, filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; L. Drawhorn for NexBank; M. Clemente for UCC; T. Berghman and J. Vasek for NexPoint Advisors; C. Taylor and J. Eidelman for J. Dondero; D. Draper for Dugaboy Trust; S. Shultz for PetroCap III purchaser. Nonevidentiary status conference. Parties expect to submit an agreed scheduling order shortly.), 2670 Hearing held on 8/4/2021. (RE: related document(s) 2535 Motion to sell Property: THE PROPERTY TO BE SOLD PURSUANT TO THIS MOTION TO SELL WILL NOT BE SOLD FREE AND CLEAR OF LIENS (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; L. Drawhorn for NexBank; M. Clemente for UCC; T. Berghman and J. Vasek for NexPoint Advisors; C. Taylor and J. Eidelman for J. Dondero; D. Draper for Dugaboy Trust; S. Shultz for PetroCap III purchaser. Evidentiary hearing. Objections and counter-bids withdrawn. Motion approved. Counsel to upload order.), 2671 Hearing held on 8/4/2021. (RE: related document(s) 2537 Motion to sell property free and clear of liens under Section 363(f) (Motion of the Debtor for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief), filed by Debtor Highland Capital Management, L.P., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Debtor; L. Drawhorn for NexBank; M. Clemente for UCC; T. Berghman and J. Vasek for NexPoint Advisors; C. Taylor and J. Eidelman for J. Dondero; D. Draper for Dugaboy Trust; S. Shultz for PetroCap III purchaser. Evidentiary hearing. Objections and counter-bids withdrawn. Motion approved. Counsel to upload order.)). Transcript to be made available to the public on 11/3/2021. (Rehling, Kathy)

08/05/2021

2676 Certificate of service re: *Documents Served on August 2, 2021* Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) 2642 Amended Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) 2620 Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Exhibit Exhibits 1 to 15)). Hearing to be held on 8/19/2021 at 09:30 AM at <https://us-courts.webex.com/meet/jerniga> for 2620, (Attachments: # 1 Exhibit) filed by Creditor Committee Official Committee of Unsecured Creditors, 2648 Reply to (related document(s): 2621 Objection filed by Interested Party NexPoint Advisors, L.P.) (*Debtor's Reply in Support of Its Motion for Entry of an Order (i) Authorizing the Sale of Certain Real Property and (ii) Granting Related Relief*) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., 2649 Reply to (related document(s): 2626 Objection filed by Interested Party NexPoint Advisors, L.P.) (*Debtor's Reply in Support of Its Motion for Entry of an Order (i) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (ii) Granting Related Relief*) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., 2650 Joinder by the Official Committee of Unsecured Creditors to the Debtor's Reply and Response filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) 2648 Reply, 2649 Reply). filed by Creditor Committee Official Committee of Unsecured Creditors, 2651 Application for compensation *Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP* for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2021 to 6/30/2021, Fee: \$464,954.40, Expenses: \$12,211.68. Filed by Attorney Juliana Hoffman Objections due by 8/23/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, 2652 Motion to shorten time to Response Deadline to Rule 2004 Motion (RE: related document(s) 2620 Motion for examination) Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 8/23/2021. (Attachments: # 1 Proposed Order) filed by Creditor Committee Official Committee of Unsecured Creditors, 2653 Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) 2636 List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 18) filed by Debtor Highland Capital Management, L.P., 2654 Motion for expedited hearing(related documents 2652 Motion to extend/shorten time) Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1

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	Proposed Order) filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
08/06/2021	<u>2678</u> Order approving stipulation (A) amending schedule and (B) consolidating and resolving certain matters (RE: related document(s) <u>2607</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Trial in the Adversary Proceeding (including on the Advisors Admin Claim) is set for December 7 and 8, 2021 at 9:30 a.m. (Central Time), Entered on 8/6/2021 (Okafor, M.)
08/06/2021	<u>2679</u> Certificate Certificate of Conference filed by Interested Party James Dondero (RE: related document(s) <u>2657</u> Amended Motion to compel Mediation. (related document: <u>2641</u> )). (Taylor, Clay)
08/06/2021	<u>2680</u> Certificate of service re: <i>1) Debtor's Amended Reply in Support of its Motion for Entry of an Order (I) Authorizing the Sale of Certain Property and (II) Granting Related Relief; and 2) Debtor's Objection to Application for Administrative Claim of NexBank Capital Inc., NexBank Securities, Inc., NexBank Title, Inc., and NexBank</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2656</u> Amended Reply to (related document(s): <u>2621</u> Objection filed by Interested Party NexPoint Advisors, L.P., <u>2648</u> Reply filed by Debtor Highland Capital Management, L.P.) ( <i>Debtor's Amended Reply in Support of Its Motion for Entry of an Order (i) Authorizing the Sale of Certain Property and (ii) Granting Related Relief</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P., <u>2659</u> Objection to (related document(s): <u>1888</u> Application for administrative expenses filed by Interested Party NexBank, Interested Party NexBank Capital Inc., Interested Party NexBank Securities Inc., Interested Party NexBank Title Inc.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/06/2021	<u>2681</u> Order granting motion to appear pro hac vice adding Thomas P. Cimino for James Dondero (related document # <u>2661</u> ) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2682</u> Order granting motion to appear pro hac vice adding Michael E. Eidelman for James Dondero (related document # <u>2662</u> ) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2683</u> Order granting motion to appear pro hac vice adding David L. Kane for James Dondero (related document # <u>2663</u> ) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2684</u> Order granting motion to appear pro hac vice adding William W. Thorsness for James Dondero (related document # <u>2664</u> ) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2685</u> Order granting motion to appear pro hac vice adding Douglas J. Lipke for James Dondero (related document # <u>2665</u> ) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2686</u> Second Agreed Supplemental Order authorizing the retention and employment of Hunt Andrews Kurth LLP as special counsel nunc pro tunc to the petition date (RE: related document(s) <u>1169</u> Agreed Supplemental Order authorizing the retention and employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (RE: related document(s) <u>763</u> Order on application to employ). Entered on 8/6/2021 (Okafor, M.)
08/06/2021	<u>2687</u> Order approving Debtors Motion for Entry of an Order (i)Authorizing the Sale of Certain Property and (ii) Granting Related Relief (related document # <u>2535</u> ) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2688</u> Order granting the Committee's Emergency Motion to Set Briefing Schedule for Motion of the Official Committee of Unsecured Creditors and the Litigation Advisor for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (Re: related document(s) <u>2652</u> Motion to



	shorten time to Response Deadline to Rule 2004 Motion (RE: related document(s) <u>2620</u> Motion for examination)) Entered on 8/6/2021. (Okafor, M.)
08/06/2021	<u>2689</u> Certificate of service re: <i>Memorandum Opinion and Order Holding Certain Parties and Their Attorneys in Civil Contempt of Court for Violation of Bankruptcy Court Orders</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2660</u> Memorandum Opinion And Order Holding Certain Parties And Their Attorneys In Civil Contempt of Court For Violation Of Bankruptcy Court Orders (RE: related document(s) <u>2247</u> Motion for order to show cause filed by Debtor Highland Capital Management, L.P.). Entered on 8/4/2021 (Okafor, M.)). (Kass, Albert)
08/06/2021	<u>2690</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2660</u> Memorandum Opinion And Order Holding Certain Parties And Their Attorneys In Civil Contempt of Court For Violation Of Bankruptcy Court Orders (RE: related document(s) <u>2247</u> Motion for order to show cause filed by Debtor Highland Capital Management, L.P.). Entered on 8/4/2021 (Okafor, M.)) No. of Notices: 3. Notice Date 08/06/2021. (Admin.)
08/08/2021	<u>2691</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2681</u> Order granting motion to appear pro hac vice adding Thomas P. Cimino for James Dondero (related document <u>2661</u> ) Entered on 8/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/08/2021. (Admin.)
08/08/2021	<u>2692</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2682</u> Order granting motion to appear pro hac vice adding Michael E. Eidelman for James Dondero (related document <u>2662</u> ) Entered on 8/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/08/2021. (Admin.)
08/08/2021	<u>2693</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2683</u> Order granting motion to appear pro hac vice adding David L. Kane for James Dondero (related document <u>2663</u> ) Entered on 8/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/08/2021. (Admin.)
08/08/2021	<u>2694</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2684</u> Order granting motion to appear pro hac vice adding William W. Thorsness for James Dondero (related document <u>2664</u> ) Entered on 8/6/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/08/2021. (Admin.)
08/09/2021	<u>2695</u> Application for compensation <i>Twentieth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2021 to 6/30/2021, Fee: \$80,105.04, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 8/30/2021. (Hoffman, Juliana)
08/09/2021	<u>2696</u> Adversary case 21–03051. Complaint by James Dondero against Alvarez & Marsal CRF Management, LLC and Farallon Capital Management, L.L.C.. Fee Amount \$350 (Attachments: # <u>1</u> Appendix # <u>2</u> Adversary Cover Sheet). Nature(s) of suit: 01 (Determination of removed claim or cause). (Rosenthal, Michael)
08/09/2021	<u>2697</u> Assignment/Transfer of Claim. Fee Amount \$52. Transfer Agreement 3001 (e) 2 Transferors: UBS Securities LLC and UBS AG London Branch (Claim No. 190, Amount \$32,175,000.00); UBS Securities LLC and UBS AG London Branch (Claim No. 191, Amount \$18,000,000.00) To Jessup Holdings LLC. Filed by Creditor Jessup Holdings LLC. (Leen, Edward)
08/09/2021	<u>2698</u> Assignment/Transfer of Claim. Fee Amount \$52. Transfer Agreement 3001 (e) 2 Transferors: UBS Securities LLC and UBS AG London Branch (Claim No. 190, Amount \$32,175,000.00); UBS Securities LLC and UBS AG London Branch (Claim No. 191, Amount \$18,000,000.00) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. (Leen, Edward)

08/09/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 52.00). Receipt number 28905213, amount \$ 52.00 (re: Doc# <u>2697</u> ). (U.S. Treasury)
08/09/2021	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)(19-34054-sgj11) [claims,trclmagt] ( 52.00). Receipt number 28905213, amount \$ 52.00 (re: Doc# <u>2698</u> ). (U.S. Treasury)
08/10/2021	<u>2699</u> Order granting motion of the Debtor for entry of an order (i) Authorizing the sale and/or forfeiture of certain limited partnership interests and other rights and (ii) Granting related relief (related document # <u>2537</u> ) Entered on 8/10/2021. (Rielly, Bill)
08/11/2021	<u>2700</u> Notice ( <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). (Annable, Zachery)
08/11/2021	<u>2701</u> Certificate of No Objection filed by Other Professional Teneo Capital, LLC (RE: related document(s) <u>2586</u> Application for compensation of <i>Teneo Capital, LLC as Litigation Advisor</i> for Official Committee of Unsecured Creditors, Other Professional, Period: 4/15/2021 to 6/30/2021, Fee: \$80,000.00, Expenses: \$118.89.). (Hoffman, Juliana)
08/11/2021	<u>2702</u> Certificate of service re: <i>Documents Served on August 6, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2678</u> Order approving stipulation (A) amending schedule and (B) consolidating and resolving certain matters (RE: related document(s) <u>2607</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Trial in the Adversary Proceeding (including on the Advisors Admin Claim) is set for December 7 and 8, 2021 at 9:30 a.m. (Central Time), Entered on 8/6/2021 (Okafor, M.), <u>2686</u> Second Agreed Supplemental Order authorizing the retention and employment of Hunt Andrews Kurth LLP as special counsel nunc pro tunc to the petition date (RE: related document(s) <u>1169</u> Agreed Supplemental Order authorizing the retention and employment of Hunton Andrews Kurth LLP as Special Counsel Nunc Pro Tunc to the petition date (RE: related document(s) <u>763</u> Order on application to employ). Entered on 8/6/2021 (Okafor, M.), <u>2687</u> Order approving Debtors Motion for Entry of an Order (i)Authorizing the Sale of Certain Property and (ii) Granting Related Relief (related document <u>2535</u> ) Entered on 8/6/2021. (Okafor, M.), <u>2688</u> Order granting the Committee's Emergency Motion to Set Briefing Schedule for Motion of the Official Committee of Unsecured Creditors and the Litigation Advisor for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (Re: related document(s) <u>2652</u> Motion to shorten time to Response Deadline to Rule 2004 Motion (RE: related document(s) <u>2620</u> Motion for examination)) Entered on 8/6/2021. (Okafor, M.)). (Kass, Albert)
08/12/2021	<u>2703</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2595</u> Application for compensation ( <i>Fourteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from February 1, 2021 through February 28, 2021</i> ) for Hayward PLLC, Deb). (Annable, Zachery)
08/12/2021	<u>2704</u> Certificate of service re: <i>Twentieth Monthly Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses for the Period from June 1, 2021 to and Including June 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2695</u> Application for compensation <i>Twentieth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2021 to 6/30/2021, Fee: \$80,105.04, Expenses: \$0. Filed by Attorney Juliana Hoffman Objections due by 8/30/2021. filed by Financial Advisor FTI Consulting, Inc.). (Kass, Albert)

08/13/2021	<u>2706</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2673</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2599</u> Order on motion for leave). (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
08/13/2021	<u>2707</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2673</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2599</u> Order on motion for leave). Appellant Designation due by 08/18/2021. (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2021	<u>2708</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-01895-D. (RE: related document(s) <u>2673</u> Notice of appeal . filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2599</u> Order on motion for leave). (Attachments: # 1 Exhibit A)) (Whitaker, Sheniqua)
08/13/2021	<u>2709</u> Certificate of service re: <i>Order Approving Motion of the Debtor for Entry of an Order (I) Authorizing the Sale and/or Forfeiture of Certain Limited Partnership Interests and Other Rights and (II) Granting Related Relief</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2699</u> Order granting motion of the Debtor for entry of an order (i) Authorizing the sale and/or forfeiture of certain limited partnership interests and other rights and (ii) Granting related relief (related document <u>2537</u> ) Entered on 8/10/2021.). (Kass, Albert)
08/16/2021	<u>2710</u> Application for compensation – <i>Eighth Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2021 to 7/31/2021, Fee: \$161,981.82, Expenses: \$1,100.68. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 9/7/2021. (Hesse, Gregory)
08/16/2021	<u>2711</u> Motion to appear pro hac vice for Blaire Cahn. Fee Amount \$100 Filed by Interested Party Matthew DiOrio, Scott Ellington, Isaac Leventon, Mary Kathryn Lucas (nee Irving), John Paul Sevilla, Stephanie Vitiello, and Frank Waterhouse (Smith, Frances)
08/16/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28921283, amount \$ 100.00 (re: Doc# <u>2711</u> ). (U.S. Treasury)
08/16/2021	<u>2712</u> Notice of appeal . Fee Amount \$298 filed by Interested Party James Dondero (RE: related document(s) <u>2660</u> Memorandum of opinion). Appellant Designation due by 08/30/2021. (Attachments: # <u>1</u> Ex. 1 – Order)(Assink, Bryan)
08/16/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28921379, amount \$ 298.00 (re: Doc# <u>2712</u> ). (U.S. Treasury)
08/16/2021	<u>2713</u> Notice of appeal by <i>The Charitable DAF Fund, L.P., CLO Holdco, Ltd., Mark Patrick, Sbaiti &amp; Company PLLC, Mazin A. Sbaiti, Jonathan Bridges</i> . Fee Amount \$298 filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP. Appellant Designation due by 08/30/2021. (Sbaiti, Mazin). Related document(s) <u>2660</u> Memorandum of opinion. Modified LINKAGE on 9/17/2021 (Blanco, J.).
08/16/2021	<u>2714</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party James Dondero. (Attachments: # <u>1</u> Ex. A – Transcript) (Taylor, Clay)
08/16/2021	

	<u>2715</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Dolomiti LLC, Dana Scott Breault, SLHC Trust, The Get Good Non Exempt Trust No 2, Get Good Non Exempt Trust No 1, The Dondero Insurance Rabbi Trust, Get Better Trust, Canis Minor Trust, Get Good Trust, The Dugaboy Investment Trust. (Draper, Douglas)
08/16/2021	<u>2716</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Parties NexPoint Advisors GP, LLC, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P.. (Vasek, Julian)
08/16/2021	<u>2717</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party NexPoint Strategic Opportunities Fund. (Hogewood, A.)
08/16/2021	<u>2718</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) <i>Objection To The Motion Of The Official Committee Of Unsecured Creditors And The Litigation Advisor For Entry Of An Order</i> filed by Highland Dallas Foundation, Inc., Charitable DAF GP, L.P., Charitable DAF HoldCo, Ltd., Interested Party Charitable DAF Fund, LP. (Phillips, Louis)
08/16/2021	<u>2719</u> Notice of Appearance and Request for Notice by Cortney C. Thomas filed by Interested Parties Okada Family Foundation, Inc., The Okada Insurance Rabbi Trust, The Mark & Pamela Okada Family Trust – Exempt Trust #2, The Mark & Pamela Okada Family Trust – Exempt Trust #1, Mark Okada. (Thomas, Cortney)
08/16/2021	<u>2720</u> Motion to appear pro hac vice for Brian Glueckstein. Fee Amount \$100 Filed by Interested Parties Mark Okada, Okada Family Foundation, Inc., The Mark & Pamela Okada Family Trust – Exempt Trust #1, The Mark & Pamela Okada Family Trust – Exempt Trust #2, The Okada Insurance Rabbi Trust (Thomas, Cortney)
08/16/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28921800, amount \$ 100.00 (re: Doc# <u>2720</u> ). (U.S. Treasury)
08/16/2021	<u>2721</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Parties Mark Okada, Okada Family Foundation, Inc., The Mark & Pamela Okada Family Trust – Exempt Trust #1, The Mark & Pamela Okada Family Trust – Exempt Trust #2, The Okada Insurance Rabbi Trust. (Thomas, Cortney)
08/16/2021	<u>2722</u> Joinder by <i>NexPoint RE Entities' to Objections to 2004 Motion</i> filed by Interested Parties NexPoint Hospitality Trust, NexPoint Multifamily Capital Trust, Inc., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Finance Inc., NexPoint Residential Trust, Inc., Nexpoint Real Estate Capital, LLC, VineBrook Homes, Trust, Inc., Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion., <u>2714</u> Objection, <u>2715</u> Objection, <u>2716</u> Objection). (Drawhorn, Lauren)
08/16/2021	<u>2723</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official



	Committee of Unsecured Creditors)and <i>Reservation of Rights</i> filed by Witness Nancy Dondero. (Attachments: # <u>1</u> Exhibit A) (Deutsch-Perez, Deborah)
08/16/2021	<u>2724</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) <i>Objection To The Motion Of The Official Committee Of Unsecured Creditors And The Litigation Advisor For Entry Of An Order</i> filed by Interested Parties Mary Jalonick, Highland Kansas City Foundation, Inc., Highland Santa Barbara Foundation, Inc., The Greater Kansas City Community Foundation, The Santa Barbara Foundation, The Dallas Foundation. (Attachments: # <u>1</u> Publication Regarding Ms. Jalonicks Service) (Phillips, Louis)
08/16/2021	<u>2725</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Interested Party Matthew DiOrio, Scott Ellington, Isaac Leventon, Mary Kathryn Lucas (nee Irving), John Paul Sevilla, Stephanie Vitiello, and Frank Waterhouse. (Smith, Frances)
08/16/2021	<u>2726</u> Objection to (related document(s): <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. filed by Creditor Committee Official Committee of Unsecured Creditors) filed by Creditor Grant James Scott III. (Kane, John)
08/17/2021	<u>2727</u> Certificate of service re: Reservation of Rights Regarding Motion of the Official Committee of Unsecured Creditors and the Litigation Advisor for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure filed by Interested Party Matthew DiOrio, Scott Ellington, Isaac Leventon, Mary Kathryn Lucas (nee Irving), John Paul Sevilla, Stephanie Vitiello, and Frank Waterhouse (RE: related document(s) <u>2725</u> Objection). (Soderlund, Eric)
08/17/2021	<u>2728</u> Motion to appear pro hac vice for Susheel Kirpalani. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige) MODIFIED attorney name on 8/19/2021 (Okafor, M.).
08/17/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28924194, amount \$ 100.00 (re: Doc# <u>2728</u> ). (U.S. Treasury)
08/17/2021	<u>2729</u> Motion to appear pro hac vice for Benjamin Finestone. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
08/17/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28924291, amount \$ 100.00 (re: Doc# <u>2729</u> ). (U.S. Treasury)
08/17/2021	<u>2730</u> Motion to appear pro hac vice for Deborah Newman. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
08/17/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28924312, amount \$ 100.00 (re: Doc# <u>2730</u> ). (U.S. Treasury)
08/17/2021	<u>2731</u> Motion to appear pro hac vice for Jordan Harap. Fee Amount \$100 Filed by Creditor Committee Official Committee of Unsecured Creditors (Montgomery, Paige)
08/17/2021	Receipt of filing fee for Motion to Appear pro hac vice(19-34054-sgj11) [motion,mprohac] ( 100.00). Receipt number 28924326, amount \$ 100.00 (re: Doc# <u>2731</u> ). (U.S. Treasury)

08/17/2021	<u>2732</u> Witness and Exhibit List for August 19, 2021 Hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). (Montgomery, Paige)
08/17/2021	<u>2733</u> Witness and Exhibit List filed by Creditor Grant James Scott III (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Kane, John)
08/17/2021	<u>2734</u> Application for compensation – <i>Ninth Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 8/1/2021 to 8/11/2021, Fee: \$59,205.24, Expenses: \$169.36. Filed by Attorney Gregory Getty Hesse, Spec. Counsel Hunton Andrews Kurth LLP Objections due by 9/7/2021. (Hesse, Gregory)
08/17/2021	<u>2735</u> Witness and Exhibit List filed by Interested Party Highland Dallas Foundation, Inc. (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 27 # <u>16</u> 28 # <u>17</u> Exhibit 36 # <u>18</u> Exhibit 37) (Phillips, Louis)
08/17/2021	<u>2736</u> Certificate of service re: Motion for Order on Rule 2004 Parties, Notice of Hearing on Motion for Order on Rule 2004 Parties, Amended Notice of Hearing on Motion for Order on Rule 2004 Parties, Motion to Set Briefing Schedule on Motion for Order on Rule 2004 Parties, Motion for Expedited Consideration on Motion to Set Briefing Schedule on Motion for Order on Rule 2004 Parties, Order Granting Emergency Motion to Set Briefing Schedule, Motion for Leave to File Brief in Excess of 25–pages, Motion for Expedited Consideration of Motion for Leave, Order Granting Leave to File Brief in Excess of 25–pages filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2613</u> Motion for leave to <i>File a Brief in Excess of Twenty–Five Pages</i> , <u>2614</u> Motion for expedited hearing(related documents <u>2613</u> Motion for leave) <i>Motion for Expedited Consideration on The Official Committee of Unsecured Creditors' Emergency Motion for Leave to File a Brief in Excess of Twenty–Five Pages</i> , <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion., <u>2627</u> Order on motion for leave, <u>2637</u> Notice of hearing, <u>2642</u> Notice of hearing, <u>2652</u> Motion to shorten time to Response Deadline to Rule 2004 Motion (RE: related document(s) <u>2620</u> Motion for examination), <u>2654</u> Motion for expedited hearing(related documents <u>2652</u> Motion to extend/shorten time) , <u>2688</u> Order on motion to extend/shorten time). (Montgomery, Paige)
08/18/2021	<u>2737</u> Witness and Exhibit List filed by Interested Party James Dondero (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). (Attachments: # <u>1</u> Dondero Ex. A # <u>2</u> Dondero Ex. B # <u>3</u> Dondero Ex. C # <u>4</u> Dondero Ex. D # <u>5</u> Dondero Ex. E # <u>6</u> Dondero Ex. F # <u>7</u> Dondero Ex. G # <u>8</u> Dondero Ex. H # <u>9</u> Dondero Ex. I # <u>10</u> Dondero Ex. J # <u>11</u> Dondero Ex. K # <u>12</u> Dondero Ex. L # <u>13</u> Dondero Ex. M # <u>14</u> Dondero Ex. N # <u>15</u> Dondero Ex. O # <u>16</u> Dondero Ex. P # <u>17</u> Dondero Ex. Q # <u>18</u> Dondero Ex. R # <u>19</u> Dondero Ex. S # <u>20</u> Dondero Ex. T # <u>21</u> Dondero Ex. U # <u>22</u> Dondero Ex. V # <u>23</u> Dondero Ex. W # <u>24</u> Dondero Ex. X # <u>25</u> Dondero Ex. Y # <u>26</u> Dondero Ex. Z # <u>27</u> Dondero Ex. AA # <u>28</u> Dondero Ex. BB # <u>29</u> Dondero Ex. CC # <u>30</u> Dondero Ex. DD # <u>31</u> Dondero Ex. EE # <u>32</u> Dondero Ex. FF # <u>33</u> Dondero Ex. GG # <u>34</u> Dondero Ex. HH # <u>35</u> Dondero Ex. II # <u>36</u> Dondero Ex. JJ) (Assink, Bryan)
08/18/2021	<u>2738</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2673</u> Notice of appeal). Appellee designation due by 09/1/2021. (Vasek, Julian)
08/18/2021	<u>2739</u> Statement of issues on appeal, filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2673</u> Notice of appeal). (Vasek, Julian)

08/18/2021	<u>2740</u> Witness and Exhibit List filed by Witness Nancy Dondero (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). (Deitsch–Perez, Deborah)
08/18/2021	<u>2741</u> Omnibus Reply to (related document(s): <u>2714</u> Objection filed by Interested Party James Dondero) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust. (Attachments: # <u>1</u> Proposed Order) (Montgomery, Paige)
08/18/2021	<u>2742</u> Application for compensation <i>Twenty–Second Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from July 1, 2021 through July 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2021 to 7/31/2021, Fee: \$1,275,026.00, Expenses: \$25,276.19. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/8/2021. (Pomerantz, Jeffrey)
08/18/2021	<u>2743</u> Notice of Agreed Order filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # <u>1</u> Exhibit Exhibits 1 to 15)). (Attachments: # <u>1</u> Exhibit A–Proposed Order) (Montgomery, Paige)
08/19/2021	<u>2744</u> Order granting motion to appear pro hac vice adding Blaire Cahn for Matthew DiOrio, Scott Ellington, Isaac Leventon, Mary Kathryn Lucas (nee Irving), John Paul Sevilla, Stephanie Vitiello, and Frank Waterhouse (related document # <u>2711</u> ) Entered on 8/19/2021. (Okafor, M.)
08/19/2021	<u>2745</u> Order granting motion to appear pro hac vice adding Brian D. Glueckstein for The Mark & Pamela Okada Family Trust – Exempt Trust #1; The Mark & Pamela Okada Family Trust – Exempt Trust #2; The Okada Insurance Rabbi Trust; Mark Okada and Okada Family Foundation, Inc. (related document # <u>2720</u> ) Entered on 8/19/2021. (Okafor, M.)
08/19/2021	<u>2746</u> Hearing held on 8/19/2021. (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion, filed by Creditor Committee Official Committee of Unsecured Creditors; (Appearances: J. Pomeranz for Debtor; P. Montgomery and D. Newman for Litigation Trustee, M. Kirschner; L. Phillips for CLO Holdco. Nonevidentiary announcement of an agreed order. Counsel to upload order.) (Edmond, Michael)
08/19/2021	<u>2747</u> Certificate of service re: <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice ( <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/19/2021	<u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2453</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
08/19/2021	<u>2749</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2453</u>

	Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 9/13/2021 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2748</u> , (Annable, Zachery)
08/20/2021	<u>2750</u> Agreed Order granting motion for 2004 examination of various entities/persons as set forth fully in the Motion (related doc # <u>2620</u> ) Entered on 8/20/2021. (Okafor, M.)
08/20/2021	<u>2751</u> Certificate of service re: <i>The Litigation Trustees Witness and Exhibit List for August 19, 2021 Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2732</u> Witness and Exhibit List for August 19, 2021 Hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). filed by Creditor Committee Official Committee of Unsecured Creditors). (Kass, Albert)
08/20/2021	<u>2752</u> Certificate of service re: <i>1) Omnibus Reply of the Litigation Trustee in Support of Motion for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure; and 2) Twenty-Second Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from July 1, 2021 Through July 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2741</u> Omnibus Reply to (related document(s): <u>2714</u> Objection filed by Interested Party James Dondero) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. (Attachments: # 1 Proposed Order) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust, <u>2742</u> Application for compensation <i>Twenty-Second Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from July 1, 2021 through July 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2021 to 7/31/2021, Fee: \$1,275,026.00, Expenses: \$25,276.19. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/8/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
08/21/2021	<u>2753</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2744</u> Order granting motion to appear pro hac vice adding Blaire Cahn for Matthew DiOrio, Scott Ellington, Isaac Leventon, Mary Kathryn Lucas (nee Irving), John Paul Sevilla, Stephanie Vitiello, and Frank Waterhouse (related document <u>2711</u> ) Entered on 8/19/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/21/2021. (Admin.)
08/21/2021	<u>2754</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2745</u> Order granting motion to appear pro hac vice adding Brian D. Glueckstein for The Mark & Pamela Okada Family Trust – Exempt Trust #1; The Mark & Pamela Okada Family Trust – Exempt Trust #2; The Okada Insurance Rabbi Trust; Mark Okada and Okada Family Foundation, Inc. (related document <u>2720</u> ) Entered on 8/19/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/21/2021. (Admin.)
08/23/2021	<u>2755</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2632</u> Application for compensation <i>Twenty-First Monthly Application for Compensation and for Reimbursement of Expenses for the Period from June 1, 2021 through June 30, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 6/1/2021 to 6/30/). (Pomerantz, Jeffrey)
08/23/2021	<u>2756</u> Response opposed to (related document(s): <u>2657</u> Amended Motion to compel Mediation. (related document: <u>2641</u> ) filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
08/23/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal,ntcapl] ( 298.00). Receipt number 28936978, amount \$ 298.00 (re: Doc# <u>2713</u> ). (U.S. Treasury)
08/23/2021	



	<u>2757</u> Agreed first amended scheduling order (RE: related document(s) <u>2196</u> Motion to disqualify Wick Phillips Gould & Martin, LLP as counsel to HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2196</u> , Entered on 8/23/2021 (Okafor, M.)
08/23/2021	<u>2758</u> Amended notice of appeal filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2713</u> Notice of appeal). (Sbaiti, Mazin)
08/23/2021	<u>2760</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2758</u> Amended notice of appeal filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2713</u> Notice of appeal).) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
08/23/2021	<u>2761</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2758</u> Amended Notice of appeal by <i>The Charitable DAF Fund, L.P., CLO Holdco, Ltd., Mark Patrick, Sbaiti &amp; Company PLLC, Mazin A. Sbaiti, Jonathan Bridges</i> . (Whitaker, Sheniqua)
08/23/2021	<u>2762</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-01974-X. (RE: related document(s) <u>2758</u> Amended notice of appeal filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2713</u> Notice of appeal).) (Whitaker, Sheniqua) MODIFIED text on 8/24/2021 (Whitaker, Sheniqua).
08/24/2021	<u>2763</u> Withdrawal ( <i>Notice of Withdrawal of Amended Motion to Compel Mediation</i> ) filed by Interested Party James Dondero (RE: related document(s) <u>2657</u> Amended Motion to compel Mediation. (related document: <u>2641</u> )). (Assink, Bryan)
08/24/2021	<u>2765</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2712</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>2660</u> Memorandum of opinion). Appellant Designation due by 08/30/2021. (Attachments: # 1 Ex. 1 – Order)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
08/24/2021	<u>2766</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2712</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>2660</u> Memorandum of opinion). (Attachments: # 1 Ex. 1 – Order)) (Whitaker, Sheniqua)
08/24/2021	<u>2767</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-01979-S. (RE: related document(s) <u>2712</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>2660</u> Memorandum of opinion). (Whitaker, Sheniqua)
08/24/2021	<u>2768</u> Agreed Scheduling Order on Debtor's third omnibus objection to certain no liability claims (related document <u>2226</u> and <u>2267</u> ). Hearing to be held on 12/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , Entered on 8/24/2021. (Okafor, M.).
08/24/2021	<u>2769</u> Order granting motion to appear pro hac vice adding Susheel Kirpalani for Litigation Sub-Trust (related document # <u>2728</u> ) Entered on 8/24/2021. (Okafor, M.)
08/24/2021	<u>2770</u> Order granting motion to appear pro hac vice adding Benjamin I. Finestone for Litigation Sub-Trust (related document # <u>2729</u> ) Entered on 8/24/2021. (Okafor, M.)
08/24/2021	<u>2771</u> Order granting motion to appear pro hac vice adding Deborah J. Newman for Litigation Sub-Trust (related document # <u>2730</u> ) Entered on 8/24/2021. (Okafor, M.)
08/24/2021	<u>2772</u> Order granting motion to appear pro hac vice adding Jordan A. Harap for Litigation Sub-Trust (related document # <u>2731</u> ) Entered on 8/24/2021. (Okafor, M.)

08/24/2021	<p><u>2773</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2021 through May 31, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
08/24/2021	<p><u>2774</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2021 through June 30, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)</p>
08/24/2021	<p><u>2775</u> Certificate of service re: 1) <i>Notice of Proposed Agreed Order Granting the Motion of the Official Committee of Unsecured Creditors and the Litigation Advisor for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure</i>; 2) <i>Reorganized Debtors Motion for Entry of an Order Further Extending the Period Within Which it May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure</i>; and 3) <i>Notice of Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2743</u> <i>Notice of Agreed Order</i> filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust (RE: related document(s)<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion. Filed by Creditor Committee Official Committee of Unsecured Creditors (Attachments: # 1 Exhibit Exhibits 1 to 15)). (Attachments: # 1 Exhibit A–Proposed Order) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust, <u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>2453</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2749</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>2453</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 9/13/2021 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2748</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
08/24/2021	<p><u>2776</u> Certificate of service re: (<i>Supplemental</i>) 1) <i>The Litigation Trustees Witness and Exhibit List for August 19, 2021 Hearing</i>; and 2) <i>Omnibus Reply of the Litigation Trustee in Support of Motion for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2732</u> <i>Witness and Exhibit List for August 19, 2021 Hearing</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2741</u> <i>Omnibus Reply to</i> (related document(s): <u>2714</u> <i>Objection</i> filed by Interested Party James Dondero) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust. (Attachments: # 1 Proposed Order) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust, <u>2751</u> Certificate of service re: <i>The Litigation Trustees Witness and Exhibit List for August 19, 2021 Hearing</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2732</u> <i>Witness and Exhibit List for August 19, 2021 Hearing</i> filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion.). filed by Creditor Committee Official Committee of Unsecured Creditors). filed by Claims Agent Kurtzman Carson Consultants LLC, <u>2752</u> Certificate of service re: 1) <i>Omnibus Reply of the Litigation Trustee in Support of Motion for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure</i>; and 2) <i>Twenty–Second Monthly Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from July 1, 2021 Through July 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related</p>

	document(s) <u>2741</u> Omnibus Reply to (related document(s): <u>2714</u> Objection filed by Interested Party James Dondero) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. (Attachments: # 1 Proposed Order) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust, <u>2742</u> Application for compensation <i>Twenty-Second Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from July 1, 2021 through July 31, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 7/1/2021 to 7/31/2021, Fee: \$1,275,026.00, Expenses: \$25,276.19. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 9/8/2021. filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
08/25/2021	<u>2777</u> Certificate of service re: <i>Agreed Order Granting the Motion of the Official Committee of Unsecured Creditors and the Litigation Advisor for Entry of an Order Authorizing the Examination of Rule 2004 Parties Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2750</u> Agreed Order granting motion for 2004 examination of various entities/persons as set forth fully in the Motion (related doc <u>2620</u> ) Entered on 8/20/2021. (Okafor, M.)). (Kass, Albert)
08/26/2021	<u>2778</u> Notice of Authority to Clerk of Bankruptcy Court filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2553</u> Amended appellant designation of contents for inclusion in record on appeal pursuant to Fed. R. Bankr. P. 8009 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2452</u> Appellant designation).). (Attachments: # <u>1</u> Exhibit A) (Draper, Douglas)
08/26/2021	<u>2779</u> Certificate of service re: <i>1) Debtors Response to James Donderos First Amended Motion for Entry of an Order (I) Compelling Mediation and (II) Granting Related Relief; and 2) Agreed First Amended Scheduling Order with Respect to Debtors Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2756</u> Response opposed to (related document(s): <u>2657</u> Amended Motion to compel Mediation. (related document: <u>2641</u> ) filed by Interested Party James Dondero) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>2757</u> Agreed first amended scheduling order (RE: related document(s) <u>2196</u> Motion to disqualify Wick Phillips Gould & Martin, LLP as counsel to HCRE Partners, LLC filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2196</u> , Entered on 8/23/2021 (Okafor, M.)). (Kass, Albert)
08/26/2021	<u>2780</u> Application for compensation ( <i>Fifteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 3/1/2021 to 3/31/2021, Fee: \$52,302.50, Expenses: \$1,131.65. Filed by Other Professional Hayward PLLC (Annable, Zachery)
08/26/2021	<u>2781</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2643</u> Application for compensation ( <i>Fourth Monthly Fee Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 3/1/2021 to 3/31/2021, Fee: \$37153.08, Expenses: \$30.90.). (Hesse, Gregory)
08/26/2021	<u>2782</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2644</u> Application for compensation ( <i>Fifth Monthly Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 4/1/2021 to 4/30/2021, Fee: \$41,936.40, Expenses: \$573.69.). (Hesse, Gregory)
08/26/2021	<u>2783</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2645</u> Application for compensation ( <i>Sixth Monthly Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 5/1/2021 to 5/31/2021, Fee: \$35,841.24, Expenses: \$0.00.). (Hesse, Gregory)

08/26/2021	<u>2784</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2646</u> Application for compensation ( <i>Seventh Monthly Application</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 6/1/2021 to 6/30/2021, Fee: \$78,401.16, Expenses: \$0.00.). (Hesse, Gregory)
08/26/2021	<u>2785</u> BNC certificate of mailing. (RE: related document(s) <u>2761</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2758</u> Amended Notice of appeal by <i>The Charitable DAF Fund, L.P., CLO Holdco, Ltd., Mark Patrick, Sbaiti &amp; Company PLLC, Mazin A. Sbaiti, Jonathan Bridges.</i> ) No. of Notices: 1. Notice Date 08/26/2021. (Admin.)
08/26/2021	<u>2786</u> BNC certificate of mailing. (RE: related document(s) <u>2766</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2712</u> Notice of appeal . filed by Interested Party James Dondero (RE: related document(s) <u>2660</u> Memorandum of opinion). (Attachments: # 1 Ex. 1 – Order))) No. of Notices: 1. Notice Date 08/26/2021. (Admin.)
08/26/2021	<u>2787</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2770</u> Order granting motion to appear pro hac vice adding Benjamin I. Finestone for Litigation Sub–Trust (related document <u>2729</u> ) Entered on 8/24/2021. (Okafor, M.)) No. of Notices: 0. Notice Date 08/26/2021. (Admin.)
08/26/2021	<u>2788</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2771</u> Order granting motion to appear pro hac vice adding Deborah J. Newman for Litigation Sub–Trust (related document <u>2730</u> ) Entered on 8/24/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/26/2021. (Admin.)
08/26/2021	<u>2789</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2772</u> Order granting motion to appear pro hac vice adding Jordan A. Harap for Litigation Sub–Trust (related document <u>2731</u> ) Entered on 8/24/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 08/26/2021. (Admin.)
08/27/2021	<u>2790</u> Motion to appear pro hac vice for Kenneth H. Brown. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
08/27/2021	Receipt of filing fee for Motion to Appear pro hac vice(19–34054–sgj11) [motion,mprohac] ( 100.00). Receipt number 28948918, amount \$ 100.00 (re: Doc# <u>2790</u> ). (U.S. Treasury)
08/27/2021	<u>2791</u> Certificate of service re: 1) <i>Agreed Scheduling Order on Debtors Third Omnibus Objection to Certain No Liability Claims</i> ; 2) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2021 through May 31, 2021</i> ; and 3) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2021 through June 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2768</u> <i>Agreed Scheduling Order on Debtor's third omnibus objection to certain no liability claims</i> (related document <u>2226</u> and <u>2267</u> ). Hearing to be held on 12/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , Entered on 8/24/2021. (Okafor, M.), <u>2773</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2021 through May 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2774</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2021 through June 30, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)



08/27/2021	<p><u>2792</u> Certificate of service re: <i>Fifteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2780</u> Application for compensation (<i>Fifteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 3/1/2021 to 3/31/2021, Fee: \$52,302.50, Expenses: \$1,131.65. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC). (Kass, Albert)</p>
08/27/2021	<p><u>2793</u> Certificate of service re: (<i>Supplemental</i>) <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2700</u> <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2747</u> Certificate of service re: <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2700</u> <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
08/28/2021	<p><u>2794</u> Transcript regarding Hearing Held 08/19/2021 (52 pages) RE: Motion for 2004 Exam (#2620). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 11/26/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 2746 Hearing held on 8/19/2021. (RE: related document(s)<u>2620</u> Motion for 2004 examination of Various entities/persons as set forth fully in the Motion, filed by Creditor Committee Official Committee of Unsecured Creditors; (Appearances: J. Pomeranz for Debtor; P. Montgomery and D. Newman for Litigation Trustee, M. Kirschner; L. Phillips for CLO Holdco. Nonevidentiary announcement of an agreed order. Counsel to upload order.)). Transcript to be made available to the public on 11/26/2021. (Rehling, Kathy)</p>
08/30/2021	<p><u>2795</u> Notice (<i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 75 and 197</i>) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
08/30/2021	<p><u>2796</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery)</p>
08/30/2021	<p><u>2797</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party James Dondero (RE: related document(s)<u>2712</u> Notice of appeal). Appellee designation due by 09/13/2021. (Assink, Bryan)</p>
08/30/2021	<p><u>2798</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s)<u>2713</u> Notice of appeal). Appellee designation due by 09/13/2021. (Sbaiti, Mazin)</p>

08/31/2021	<u>2799</u> Order granting motion to appear pro hac vice adding Kenneth H. Brown for Highland Capital Management, L.P. (related document # <u>2790</u> ) Entered on 8/31/2021. (Okafor, M.)
09/01/2021	<u>2800</u> Certificate of service re: <i>Motion for Admission Pro Hac Vice of Kenneth H. Brown to Represent Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2790</u> Motion to appear pro hac vice for Kenneth H. Brown. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/02/2021	<u>2801</u> Notice ( <i>Notice of Appointment of Members of the Oversight Board of the Highland Claimant Trust</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/02/2021	<u>2802</u> Certificate of service re: <i>1) Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 75 and 197; and 2) Objection to Proof of Claim Number 131 Filed by The Dugaboy Investment Trust on April 8, 2020</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2795</u> Notice ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 75 and 197</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2796</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/02/2021	<u>2803</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2799</u> Order granting motion to appear pro hac vice adding Kenneth H. Brown for Highland Capital Management, L.P. (related document <u>2790</u> ) Entered on 8/31/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 09/02/2021. (Admin.)
09/03/2021	<u>2804</u> Certificate of service re: <i>1) Order for Admission Pro Hac Vice of Kenneth H. Brown to Represent Highland Capital Management, L.P.; and 2) Notice of Appointment of Members of the Oversight Board of the Highland Claimant Trust</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2799</u> Order granting motion to appear pro hac vice adding Kenneth H. Brown for Highland Capital Management, L.P. (related document <u>2790</u> ) Entered on 8/31/2021. (Okafor, M.), <u>2801</u> Notice ( <i>Notice of Appointment of Members of the Oversight Board of the Highland Claimant Trust</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/03/2021	<u>2805</u> Certificate of service re: [ <i>Customized for Rule 3001(e)(2) or 3001(e)(4)</i> ] <i>Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e)(2) or 3001(e)(4) [Re Docket Nos. 2697 and 2698]</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2697</u> Assignment/Transfer of Claim. Fee Amount \$52. Transfer Agreement 3001 (e) 2 Transferors: UBS Securities LLC and UBS AG London Branch (Claim No. 190, Amount \$32,175,000.00); UBS Securities LLC and UBS AG London Branch (Claim No. 191, Amount \$18,000,000.00) To Jessup Holdings LLC. Filed by Creditor Jessup Holdings LLC. filed by Creditor Jessup Holdings LLC, <u>2698</u> Assignment/Transfer of Claim. Fee Amount \$52. Transfer Agreement 3001 (e) 2 Transferors: UBS Securities LLC and UBS AG London Branch (Claim No. 190, Amount \$32,175,000.00); UBS Securities LLC and UBS AG London Branch (Claim No. 191, Amount \$18,000,000.00) To Muck Holdings LLC. Filed by Creditor Muck Holdings LLC. filed by Creditor Muck Holdings LLC). (Kass, Albert)
09/03/2021	<u>2806</u> Certificate of service re: ( <i>Supplemental</i> ) <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice ( <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)).

	<p>filed by Debtor Highland Capital Management, L.P., <u>2747</u> Certificate of service re: <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2700</u> Notice (<i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
09/03/2021	<p><u>2807</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2570</u> Amended application for compensation <i>Sidley Austin LLP's Amended 19th Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 5/1/2021 to 5/31/2021, Fee: \$432,748.80, Expenses: &amp;#036). (Hoffman, Juliana)</p>
09/03/2021	<p><u>2808</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2651</u> Application for compensation <i>Monthly Application for Compensation and Reimbursement of Expenses for Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 6/1/2021 to 6/30/2021, Fee: \$464,954.40, E). (Hoffman, Juliana)</p>
09/03/2021	<p><u>2809</u> Certificate of No Objection filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s)<u>2585</u> Application for compensation <i>Sidley Austin LLP's Sixth Interim Application for Compensation</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 3/1/2021 to 5/31/2021, Fee: \$1,527,522.75, Expenses: \$32,9). (Hoffman, Juliana)</p>
09/07/2021	<p><u>2811</u> Notice of Transmittal; 3:21-CV-01590-N – Appellant Supplemental Record Vol. 1 and 2 per District Court order entered 8/24/2021 . (Blanco, J.) Modified TEXT on 9/7/2021 (Blanco, J.).</p>
09/07/2021	<p><u>2812</u> Order denying as moot motion to compel compliance with Bankruptcy Rule 2015.3 (related document # <u>2256</u>) Entered on 9/7/2021. (Okafor, M.)</p>
09/08/2021	<p><u>2813</u> Notice (<i>Notice of Removal of Matter from September 13, 2021 Hearing Docket</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendants: Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). (Annable, Zachery)</p>
09/08/2021	<p><u>2815</u> Transmittal of record on appeal to U.S. District Court . Deficient record on appeal: Appellee failed to provide court admitted exhibits for hearings: January 9, 2020 (doc 335); AND July 14, 2020 (doc 836). , Transmitted: Volume 1, Mini Record. Number of appellant volumes: 21 Number of appellee volumes: 2. Civil Case Number: 3:21-CV-01585-S (RE: related document(s)<u>2513</u> Notice of appeal) (Blanco, J.)</p>
09/08/2021	<p><u>2816</u> Notice of docketing DEFICIENT record on appeal. 3:21-CV-01585-S (RE: related document(s)<u>2513</u> Notice of appeal (RE: related document(s)<u>2506</u> Order on motion to reconsider). (Blanco, J.)</p>
09/09/2021	<p><u>2817</u> Order approving stipulation and agreed order authorizing withdrawal of proof of claims 75 and 197 (RE: related document(s)<u>2795</u> Notice (generic) filed by Debtor Highland</p>

	Capital Management, L.P.). Entered on 9/9/2021 (Okafor, M.)
09/09/2021	<u>2818</u> Certificate No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2742</u> Application for compensation <i>Twenty-Second Monthly Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel to the Debtor for the Period from July 1, 2021 through July 31, 2021</i> for Jeffrey). (Pomerantz, Jeffrey)
09/09/2021	<u>2819</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)
09/09/2021	<u>2820</u> Notice to take deposition of Robert L. Kehr filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
09/09/2021	<u>2821</u> Notice to take deposition of Ben Selman filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/09/2021	<u>2822</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2710</u> Application for compensation – <i>Eighth Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 7/1/2021 to 7/31/2021, Fee: \$161,981.82, Expenses: \$1,100.68.). (Hesse, Gregory)
09/09/2021	<u>2823</u> Certificate of No Objection filed by Spec. Counsel Hunton Andrews Kurth LLP (RE: related document(s) <u>2734</u> Application for compensation – <i>Ninth Monthly Fee Application</i> for Hunton Andrews Kurth LLP, Special Counsel, Period: 8/1/2021 to 8/11/2021, Fee: \$59,205.24, Expenses: \$169.36.). (Hesse, Gregory)
09/09/2021	<u>2824</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2796</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C), <u>2819</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G)). Hearing to be held on 10/25/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2819</u> and for <u>2796</u> , (Annable, Zachery)
09/10/2021	<u>2825</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2453</u> Order on motion to extend/shorten time)). (Annable, Zachery)
09/10/2021	<u>2826</u> Certificate of service re: <i>(Supplemental) 1) Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.; and 2) Agreed Scheduling Order on Debtors Third Omnibus Objection to Certain No Liability Claims</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice <i>(Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2747</u> Certificate of service re: <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice <i>(Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as



	<p>modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC, <u>2768</u> Agreed Scheduling Order on Debtor's third omnibus objection to certain no liability claims (related document <u>2226</u> and <u>2267</u> ). Hearing to be held on 12/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u>, Entered on 8/24/2021. (Okafor, M.), <u>2791</u> Certificate of service re: 1) <i>Agreed Scheduling Order on Debtors Third Omnibus Objection to Certain No Liability Claims</i>; 2) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2021 through May 31, 2021</i>; and 3) <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2021 through June 30, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2768</u> Agreed Scheduling Order on Debtor's third omnibus objection to certain no liability claims (related document <u>2226</u> and <u>2267</u> ). Hearing to be held on 12/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u>, Entered on 8/24/2021. (Okafor, M.), <u>2773</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from May 1, 2021 through May 31, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2774</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from June 1, 2021 through June 30, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)</p>
09/13/2021	<p><u>2827</u> Notice (<i>Notice of Removal of Matter from September 13, 2021 Hearing Docket</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)<u>2453</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). (Annable, Zachery)</p>
09/13/2021	<p><u>2828</u> Order Further Extending Period Within Which The Reorganized Debtor May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (Related document #<u>2748</u>) Entered on 9/13/2021. (Okafor, M.)</p>
09/13/2021	<p><u>2829</u> Order granting Debtor's motion to compromise controversy with Highland Capital Management Fund Advisors, Nexpoint Advisors, Highland Income Fund, Nexpoint Strategic Opportunities Fund, and Nexpoint Capital (related document # <u>2589</u>) Entered on 9/13/2021. (Okafor, M.)</p>
09/13/2021	<p><u>2831</u> Certificate of service re: <i>Notice of Removal of Matter from September 13, 2021 Hearing Docket</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2813</u> Notice (<i>Notice of Removal of Matter from September 13, 2021 Hearing Docket</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2589</u> Motion to compromise controversy with Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Related AP case numbers: 21-3000. Related defendants: Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Income Fund, NexPoint Strategic Opportunities Fund, and NexPoint Capital, Inc.. Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A—Proposed Order)). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/13/2021	<p><u>2832</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2713</u> Notice of appeal, <u>2758</u> Amended notice of appeal). (Annable, Zachery).</p>

09/13/2021	<u>2833</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2712</u> Notice of appeal). (Annable, Zachery)
09/14/2021	<u>2834</u> Notice of change of address filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/14/2021	<u>2835</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . , Transmitted: Volume 1, Mini Record. Number of appellant volumes: 21 . Civil Case Number: 3:21-CV-01295-X (RE: related document(s) <u>2398</u> Notice of appeal ) (Blanco, J.)
09/14/2021	<u>2837</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-01295-X (RE: related document(s) <u>2398</u> Notice of appeal (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). ) (Blanco, J.)
09/14/2021	<u>2838</u> Notice of transmittal: 13 SEALED DOCS (RE: related document(s) <u>2837</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-01295-X (RE: related document(s) <u>2398</u> Notice of appeal (RE: related document(s) <u>2389</u> Order on motion to compromise controversy). ) (Blanco, J.)). (Blanco, J.)
09/14/2021	<u>2839</u> Certificate of service re: <i>Documents Served on or Before September 9, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2817</u> Order approving stipulation and agreed order authorizing withdrawal of proof of claims 75 and 197 (RE: related document(s) <u>2795</u> Notice (generic) filed by Debtor Highland Capital Management, L.P.). Entered on 9/9/2021 (Okafor, M.), <u>2819</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P., <u>2821</u> Notice to take deposition of Ben Selman filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2824</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2796</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C), <u>2819</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G)). Hearing to be held on 10/25/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2819</u> and for <u>2796</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/14/2021	<u>2840</u> Notice of appeal <i>Order Denying Motion to Compel Compliance With Bankruptcy Rule 2015.3</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2812</u> Order on motion to compel). Appellant Designation due by 09/28/2021. (Attachments: # <u>1</u> Exhibit A)(Draper, Douglas)
09/14/2021	Receipt of filing fee for Notice of appeal(19-34054-sgj11) [appeal.ntcapl] ( 298.00). Receipt number 28984191, amount \$ 298.00 (re: Doc# <u>2840</u> ). (U.S. Treasury)
09/15/2021	<u>2841</u> First Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2840</u> Notice of appeal). (Attachments: # <u>1</u> Exhibit A)(Draper, Douglas)
09/15/2021	<u>2842</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2829</u> Order granting Debtor's motion to compromise controversy with Highland Capital Management Fund Advisors, Nexpoint Advisors, Highland Income Fund, Nexpoint Strategic Opportunities Fund, and Nexpoint Capital (related document <u>2589</u> ) Entered on 9/13/2021. (Okafor, M.)) No. of Notices: 1. Notice Date 09/15/2021. (Admin.)
09/16/2021	<u>2844</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2611</u> Application for compensation <i>Sixth Interim Application for</i>

	<i>Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 3/1/2021 to 5/31/2021, Fee: \$339,167.25, Expenses: \$0.). (Hoffman, Juliana)
09/16/2021	<u>2845</u> Certificate of No Objection filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>2695</u> Application for compensation <i>Twentieth Monthly Application for Compensation</i> for FTI Consulting, Inc., Financial Advisor, Period: 6/1/2021 to 6/30/2021, Fee: \$80,105.04, Expenses: \$0.). (Hoffman, Juliana)
09/16/2021	<u>2846</u> Certificate of service re: <i>Documents Served on September 13, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2827</u> Notice ( <i>Notice of Removal of Matter from September 13, 2021 Hearing Docket</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2748</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2453</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). filed by Debtor Highland Capital Management, L.P., <u>2828</u> Order Further Extending Period Within Which The Reorganized Debtor May Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (Related document # <u>2748</u> ) Entered on 9/13/2021. (Okafor, M.), <u>2829</u> Order granting Debtor's motion to compromise controversy with Highland Capital Management Fund Advisors, Nexpoint Advisors, Highland Income Fund, Nexpoint Strategic Opportunities Fund, and Nexpoint Capital (related document <u>2589</u> ) Entered on 9/13/2021. (Okafor, M.), <u>2832</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2713</u> Notice of appeal, <u>2758</u> Amended notice of appeal).. filed by Debtor Highland Capital Management, L.P., <u>2833</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2712</u> Notice of appeal). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/17/2021	<u>2847</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 13 . Civil Case Number: 3:21-CV-1895-D (RE: related document(s) <u>2673</u> Notice of appeal Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2599</u> Order on motion for leave). ) (Blanco, J.)
09/17/2021	<u>2848</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-01895-D (RE: related document(s) <u>2673</u> Notice of appeal filed by Interested Parties Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Creditor The Dugaboy Investment Trust (RE: related document(s) <u>2599</u> Order on motion for leave). (Blanco, J.)
09/17/2021	<u>2849</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2609</u> Application for compensation ( <i>Fifth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from January 1, 2021 through January 31, 2021</i> ) for Deloitte Tax LLP.). (Annable, Zachery)
09/17/2021	<u>2850</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2610</u> Application for compensation ( <i>Sixth Monthly Fee Statement of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from February 1, 2021 through February 28, 2021</i> ) for Deloitte Tax LLP). (Annable, Zachery)
09/17/2021	<u>2851</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2780</u> Application for compensation ( <i>Fifteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from March 1, 2021 through March 31, 2021</i> ) for Hayward PLLC, Debtor's A). (Annable, Zachery)
09/17/2021	

	<u>2852</u> Application for compensation for Eastern Point Trust Company, Inc. , Administrator of non-qualified executive compensation and the Trustee for the Associated Rabi Trust for Highland Capital Management, L.P., Fee: \$203423.00, Expenses: \$0.00. Filed by Eastern Point Trust Company, Inc. (Attachments: # <u>1</u> Exhibit 1) (Okafor, M.)
09/17/2021	<u>2853</u> Certificate of service re: <i>Notice of Reorganized Debtors Change of Address</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2834</u> Notice of change of address filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/20/2021	<u>2854</u> Stipulation by Highland Capital Management, L.P. and The Pension Benefit Guaranty Corporation. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). (Annable, Zachery)
09/21/2021	<u>2855</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claims 49, 50, and 51 filed by The Pension Benefit Guaranty Corporation (RE: related document(s) <u>2854</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 9/21/2021 (Okafor, M.)
09/21/2021	<u>2856</u> Motion for leave ( <i>Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)
09/21/2021	<u>2857</u> Motion to disallow claims ( <i>Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)
09/22/2021	<u>2858</u> Application for compensation ( <i>Sixteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from April 1, 2021 through April 30, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 4/1/2021 to 4/30/2021, Fee: \$55,665.00, Expenses: \$2,879.41. Filed by Attorney Zachery Z. Annable, Other Professional Hayward PLLC (Annable, Zachery)
09/22/2021	<u>2859</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from July 1, 2021 through July 31, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery)
09/22/2021	<u>2861</u> Certificate of mailing regarding appeal (RE: related document(s) <u>2841</u> First Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2840</u> Notice of appeal). (Attachments: # <u>1</u> Exhibit A)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
09/22/2021	<u>2862</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2841</u> Amended Notice of appeal <i>Order Denying Motion to Compel Compliance With Bankruptcy Rule 2015.3</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2812</u> Order on motion to compel). (Attachments: # <u>1</u> Exhibit A)) (Whitaker, Sheniqua)
09/22/2021	<u>2863</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-02268S. (RE: related document(s) <u>2841</u> First Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2840</u> Notice of appeal). (Attachments: # <u>1</u> Exhibit A)) (Whitaker, Sheniqua)
09/22/2021	<u>2864</u> Omnibus Objection to claim(s) of Creditor(s) Chubb National Insurance Company; Contrarian Funds, LLC; Duff & Phelps, LLP; Federal Insurance Company; Great Northern Insurance Company; Great Northern Insurance Company, Chubb National Insurance



	Company, and Federal Insurance Company; Markit WSO Corp; Markit WSO Corp; A. Dean Jenkins; Amit Walia.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 10/22/2021. (Annable, Zachery)
09/22/2021	<u>2865</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2864</u> Omnibus Objection to claim(s) of Creditor(s) Chubb National Insurance Company; Contrarian Funds, LLC; Duff & Phelps, LLP; Federal Insurance Company; Great Northern Insurance Company; Great Northern Insurance Company, Chubb National Insurance Company, and Federal Insurance Company; Markit WSO Corp; Markit WSO Corp; A. Dean Jenkins; Amit Walia.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 10/22/2021.). Hearing to be held on 11/3/2021 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2864</u> , (Annable, Zachery)
09/23/2021	<u>2866</u> Certificate of service re: <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 49, 50, and 51 Filed by the Pension Benefit Guaranty Corporation</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2854</u> Stipulation by Highland Capital Management, L.P. and The Pension Benefit Guaranty Corporation. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1808</u> Chapter 11 plan). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
09/24/2021	<u>2868</u> Application for administrative expenses for rank-and-file employees Filed by Interested Party CPCM, LLC (Attachments: # <u>1</u> Proposed Order) (Soderlund, Eric)
09/24/2021	<u>2869</u> Application for administrative expenses Filed by Interested Party CPCM, LLC (Attachments: # <u>1</u> Proposed Order) (Soderlund, Eric)
09/24/2021	<u>2870</u> Notice ( <i>First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
09/24/2021	<u>2871</u> Application for compensation ( <i>Seventeenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from May 1, 2021 through May 31, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 5/1/2021 to 5/31/2021, Fee: \$51,697.50, Expenses: \$3,556.31. Filed by Other Professional Hayward PLLC (Annable, Zachery)
09/24/2021	<u>2872</u> Application for compensation ( <i>FINAL</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021. (Hesse, Gregory)
09/24/2021	<u>2873</u> Certificate of service re: 1) <i>Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim 49, 50, and 51 Filed by the Pension Benefit Guaranty Corporation</i> ; 2) <i>Motion of the Reorganized Debtor for an Order Authorizing Entry Into an Amended and Restated Employee Stipulation</i> ; and 3) <i>Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2855</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claims 49, 50, and 51 filed by The Pension Benefit Guaranty Corporation (RE: related document(s) <u>2854</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 9/21/2021 (Okafor, M.), <u>2856</u> Motion for leave ( <i>Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P., <u>2857</u> Motion to disallow claims ( <i>Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

09/24/2021	<u>2874</u> BNC certificate of mailing. (RE: related document(s) <u>2862</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>2841</u> Amended Notice of appeal <i>Order Denying Motion to Compel Compliance With Bankruptcy Rule 2015.3</i> . Fee Amount \$298 filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2812</u> Order on motion to compel). (Attachments: # 1 Exhibit A))) No. of Notices: 1. Notice Date 09/24/2021. (Admin.)
09/27/2021	<u>2875</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 43 Number of appellee volumes: 2. Civil Case Number: 3:21-CV-01974-X (RE: related document(s) <u>2713</u> Notice of appeal filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP. Related document(s) <u>2660</u> Memorandum of opinion. Modified LINKAGE on 9/17/2021 (Blanco, J.), <u>2758</u> Amended notice of appeal filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2713</u> Notice of appeal.) (Blanco, J.)
09/27/2021	<u>2876</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-01974-X (RE: related document(s) <u>2713</u> Notice of appeal <u>2660</u> Memorandum of opinion. <u>2758</u> Amended notice of appeal filed by Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>2713</u> Notice of appeal.) (Blanco, J.)
09/27/2021	<u>2877</u> Certificate of service re: <i>(Supplemental) Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice <i>(Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2747</u> Certificate of service re: <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice <i>(Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.)</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P.). filed by Claims Agent Kurtzman Carson Consultants LLC). (Kass, Albert)
09/27/2021	<u>2888</u> Request for Removal from 2002 Service List filed by Creditor Patrick Daugherty . (Tello, Chris) (Entered: 09/29/2021)
09/27/2021	<u>2889</u> Motion to Strike (related document(s) <u>2852</u> Application for compensation) Filed by Other Professional Eastern Point Trust Company, Inc. (Tello, Chris) (Entered: 09/29/2021)
09/27/2021	<u>2890</u> INCORRECT ENTRY: Docketed in this Case In Error – Notice of change of address filed by Creditor Georganna L. Simpson, P.C. . (Tello, Chris) Modified on 12/27/2021 (Okafor, Marcey). (Entered: 09/29/2021)
09/28/2021	<u>2878</u> Certificate of service re: <i>Documents Served on September 22, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2858</u> Application for compensation <i>(Sixteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from April 1, 2021 through April 30, 2021)</i> for Hayward PLLC, Debtor's Attorney, Period: 4/1/2021 to 4/30/2021, Fee: \$55,665.00, Expenses: \$2,879.41. Filed by Attorney Zachery Z. Annable, Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, <u>2859</u> Notice <i>(Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the</i>

	<p><i>Period from July 1, 2021 through July 31, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). filed by Debtor Highland Capital Management, L.P., <u>2864</u> Omnibus Objection to claim(s) of Creditor(s) Chubb National Insurance Company; Contrarian Funds, LLC; Duff &amp; Phelps, LLP; Federal Insurance Company; Great Northern Insurance Company; Great Northern Insurance Company, Chubb National Insurance Company, and Federal Insurance Company; Markit WSO Corp; Markit WSO Corp; A. Dean Jenkins; Amit Walia.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 10/22/2021. filed by Debtor Highland Capital Management, L.P., <u>2865</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2864</u> Omnibus Objection to claim(s) of Creditor(s) Chubb National Insurance Company; Contrarian Funds, LLC; Duff &amp; Phelps, LLP; Federal Insurance Company; Great Northern Insurance Company; Great Northern Insurance Company, Chubb National Insurance Company, and Federal Insurance Company; Markit WSO Corp; Markit WSO Corp; A. Dean Jenkins; Amit Walia.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 10/22/2021.). Hearing to be held on 11/3/2021 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2864</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
09/28/2021	<p><u>2879</u> Statement of issues on appeal, filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>2812</u> Order on motion to compel). (Draper, Douglas)</p>
09/28/2021	<p><u>2880</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>2879</u> Statement of issues on appeal). Appellee designation due by 10/12/2021. (Draper, Douglas)</p>
09/29/2021	<p><u>2882</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s)<u>2880</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s)<u>2879</u> Statement of issues on appeal). Appellee designation due by 10/12/2021.) Responses due by 10/1/2021. (Blanco, J.)</p>
09/29/2021	<p><u>2883</u> Certificate of service re: Motion of CPCM, LLC for Allowance and Payment of Administrative Expenses of Rank-and-File Employees, CPCM, LLC for Allowance and Payment of Administrative Expense Claims, and Amended Proof of Claim for Scott Ellington [Claim No. 251] filed by Interested Party CPCM, LLC (RE: related document(s)<u>2868</u> Application for administrative expenses <i>for rank-and-file employees</i>, <u>2869</u> Application for administrative expenses). (Smith, Frances)</p>
09/29/2021	<p><u>2884</u> Certificate of service re: <i>1) First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.; and 2) Seventeenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from May 1, 2021 Through May 31, 2021</i> Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2870</u> Notice (<i>First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2871</u> Application for compensation (<i>Seventeenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from May 1, 2021 through May 31, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 5/1/2021 to 5/31/2021, Fee: \$51,697.50, Expenses: \$3,556.31. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC). (Kass, Albert)</p>
09/29/2021	<p><u>2885</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 61 Number of appellee volumes: 1. Civil Case Number: 3:21-CV-01979-S (RE: related document(s)<u>2712</u> Notice of appeal filed by Interested Party James Dondero (RE: related document(s)<u>2660</u> Memorandum of opinion). (Blanco, J.)</p>

09/29/2021	<u>2886</u> Notice of docketing COMPLETE record on appeal. 3:21-CV-01979-S (RE: related document(s) <u>2712</u> Notice of appeal filed by Interested Party James Dondero (RE: related document(s) <u>2660</u> Memorandum of opinion). (Blanco, J.)
09/29/2021	<u>2887</u> Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP , CLO Holdco, Ltd. against Highland Capital Management, LP , Highland HCF Advisor Ltd , Highland CLO Funding, Ltd. . Fee Amount \$350 (Attachments: # <u>1</u> Original Complaint # <u>2</u> Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
09/30/2021	<u>2891</u> Clerk's correspondence requesting an order from attorney for interested party. (RE: related document(s) <u>1888</u> Application for administrative expenses Filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc.) Responses due by 10/14/2021. (Ecker, C.)
09/30/2021	<u>2892</u> Amended appellant designation of contents for inclusion in record on appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2880</u> Appellant designation). (Draper, Douglas)
10/01/2021	<u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
10/01/2021	<u>2894</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i> ). (Annable, Zachery)
10/01/2021	<u>2895</u> Declaration re: ( <i>Declaration of Kenneth H. Brown in Support of Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i> ). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Annable, Zachery)
10/01/2021	<u>2896</u> BNC certificate of mailing. (RE: related document(s) <u>2882</u> Clerk's correspondence requesting Amended designation from attorney for creditor. (RE: related document(s) <u>2880</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2879</u> Statement of issues on appeal). Appellee designation due by 10/12/2021.) Responses due by 10/1/2021. (Blanco, J.)) No. of Notices: 1. Notice Date 10/01/2021. (Admin.) (Entered: 10/02/2021)
10/05/2021	<u>2897</u> Certificate of service re: (Supplemental) Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2700</u> Notice ( <i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)).



	filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/05/2021	<u>2898</u> Motion to withdraw as attorney (Vedder Price P.C. and its attorneys) Filed by Interested Party James Dondero (Attachments: # <u>1</u> Proposed Order) (Taylor, Clay)
10/06/2021	<u>2899</u> Certificate of service re: 1) Highlands Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; 2) Highlands Memorandum of Law in Support of Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; and 3) Declaration of Kenneth H. Brown in Support of Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2894</u> Brief in support filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i> ). filed by Debtor Highland Capital Management, L.P., <u>2895</u> Declaration re: (Declaration of Kenneth H. Brown in Support of Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i> ). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/07/2021	<u>2900</u> Motion to continue hearing on (related documents <u>2893</u> Motion to compel) ( <i>Unopposed Motion to Continue the Hearing on Highland's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
10/07/2021	<u>2901</u> Order granting motion to continue hearing on (related document # <u>2900</u> ) (related documents Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i> ) Hearing to be held on 11/30/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2893</u> , Entered on 10/7/2021. (Nunns, Tracy)
10/08/2021	<u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021. (Hoffman, Juliana)
10/08/2021	<u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021. (Hoffman, Juliana)
10/08/2021	<u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021. (Hoffman, Juliana)
10/08/2021	

	<u>2905</u> Application for compensation ( <i>Eighteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from June 1, 2021 through June 30, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 6/1/2021 to 6/30/2021, Fee: \$53,145.00, Expenses: \$7,788.92. Filed by Other Professional Hayward PLLC (Annable, Zachery)
10/08/2021	<u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021. (Pomerantz, Jeffrey)
10/08/2021	<u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021. (Pomerantz, Jeffrey)
10/08/2021	<u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021. (Pomerantz, Jeffrey)
10/08/2021	<u>2909</u> Application for compensation ( <i>Nineteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from July 1, 2021 through August 11, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 7/1/2021 to 8/11/2021, Fee: \$49,947.50, Expenses: \$3,965.32. Filed by Other Professional Hayward PLLC (Annable, Zachery)
10/08/2021	<u>2910</u> Application for compensation ( <i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC (Annable, Zachery)
10/11/2021	<u>2911</u> Application for compensation ( <i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i> ) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP (Annable, Zachery)
10/11/2021	<u>2912</u> Certificate of service re: (Supplemental) re First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2870</u> Notice ( <i>First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/12/2021	<u>2913</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/30/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2893</u> , (Annable, Zachery)

10/12/2021	<p><u>2914</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2840</u> Notice of appeal, <u>2841</u> Amended notice of appeal, <u>2879</u> Statement of issues on appeal). (Annable, Zachery)</p>
10/12/2021	<p><u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, (Annable, Zachery)</p>
10/12/2021	<p><u>2916</u> Clerk's correspondence requesting File an amended appellee designation from attorney for appellee. (RE: related document(s)<u>2914</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2840</u> Notice of appeal, <u>2841</u> Amended notice of appeal, <u>2879</u> Statement of issues on appeal).) Responses due by 10/14/2021. (Blanco, J.)</p>
10/12/2021	<p><u>2917</u> Amended appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2914</u> Appellee designation). (Annable, Zachery)</p>
10/13/2021	



	<p><u>2918</u> Order granting sixth interim application for compensation (related document # <u>2611</u>) granting for FTI Consulting, Inc., fees awarded: \$339167.25, expenses awarded: \$0.00 Entered on 10/13/2021. (Nunns, Tracy)</p>
10/13/2021	<p><u>2919</u> Order granting unopposed motion to withdraw as attorneys (attorney David L. Kane; Douglas J. Lipke; William W. Thorsness; Thomas P. Cimino and Michael E. Eidelman terminated). (related document # <u>2898</u>) Entered on 10/13/2021. (Nunns, Tracy)</p>
10/13/2021	<p><u>2921</u> Certificate of service re: 1) Unopposed Motion to Continue the Hearing on Highlands Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; and 2) Order Granting Unopposed Motion to Continue the Hearing on Highland's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2900</u> Motion to continue hearing on (related documents <u>2893</u> Motion to compel) (<i>Unopposed Motion to Continue the Hearing on Highland's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>2901</u> Order granting motion to continue hearing on (related document <u>2900</u>) (related documents Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. (<i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i>) Hearing to be held on 11/30/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2893</u>. Entered on 10/7/2021.). (Kass, Albert)</p>
10/13/2021	<p><u>2922</u> Certificate of service re: Documents Served on October 8, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021. filed by Financial Advisor FTI Consulting, Inc., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021. filed by Other Professional Teneo Capital, LLC, <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021. filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2905</u> Application for compensation (<i>Eighteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from June 1, 2021 through June 30, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 6/1/2021 to 6/30/2021, Fee: \$53,145.00, Expenses: \$7,788.92. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021. filed by Debtor Highland Capital Management, L.P., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021. filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period:</p>



	11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021. filed by Consultant Mercer (US) Inc., <u>2909</u> Application for compensation ( <i>Nineteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from July 1, 2021 through August 11, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 7/1/2021 to 8/11/2021, Fee: \$49,947.50, Expenses: \$3,965.32. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC, <u>2910</u> Application for compensation ( <i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i> ) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC filed by Other Professional Hayward PLLC). (Kass, Albert)
10/14/2021	<u>2923</u> Notice of Case Status filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc. (RE: related document(s) <u>2891</u> Clerk's correspondence requesting an order from attorney for interested party. (RE: related document(s) <u>1888</u> Application for administrative expenses Filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc.) Responses due by 10/14/2021. (Ecker, C.)). (Drawhorn, Lauren)
10/15/2021	<u>2924</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2858</u> Application for compensation ( <i>Sixteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from April 1, 2021 through April 30, 2021</i> ) for Hayward PLLC, Debtor's A). (Annable, Zachery)
10/15/2021	<u>2925</u> Transmittal of record on appeal to U.S. District Court . Complete record on appeal . ,Transmitted: Volume 1, Mini Record. Number of appellant volumes: 4 Number of appellee volumes: 2. Civil Case Number: 3:21-CV-02268-S (RE: related document(s) <u>2841</u> First Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2840</u> Notice of appeal) (Blanco, J.)
10/15/2021	<b>2926 SEALED document regarding: Appendix in Support of HCRE Partners, LLC Brief in Opposition to Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP per court order</b> filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>2505</u> Order on motion to seal). (Drawhorn, Lauren)
10/15/2021	<u>2927</u> Response opposed to (related document(s): <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and filed by Debtor Highland Capital Management, L.P.</i> ) filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
10/15/2021	<u>2928</u> Support/supplemental document <i>Supplemental Appendix ISO NREP Response and Brief in Opposition to Debtor's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP</i> filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>2927</u> Response). (Drawhorn, Lauren)
10/15/2021	<u>2929</u> Notice of docketing COMPLETE record on appeal. (RE: related document(s) <u>2841</u> First Amended notice of appeal filed by Get Good Trust, The Dugaboy Investment Trust (RE: related document(s) <u>2840</u> Notice of appeal). (Attachments: # 1 Exhibit A)) Civil case 3:21-cv-02268-S (Whitaker, Sheniqua)
10/15/2021	<u>2930</u> Motion to appear pro hac vice for Robert Loigman. Fee Amount \$100 Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust (Montgomery, Paige)
10/15/2021	

	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29058450, amount \$ 100.00 (re: Doc# <u>2930</u> ). (U.S. Treasury)
10/15/2021	<u>2931</u> Motion to appear pro hac vice for Alexandre J. Tschumi. Fee Amount \$100 Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust (Montgomery, Paige)
10/15/2021	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29058482, amount \$ 100.00 (re: Doc# <u>2931</u> ). (U.S. Treasury)
10/15/2021	<u>2932</u> Response unopposed to (related document(s): <u>2819</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) <i>No Opposition to Granting Objection to Proof of Claim Number 177 Filed by the Dugaboy Investment Trust on April 23, 2020 [Dkt. 2819]</i> filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
10/15/2021	<u>2933</u> Response unopposed to (related document(s): <u>2796</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) <i>Limited Response and Consent to Objection to Proof of Claim 131 Filed by The Dugaboy Investment Trust on April 8, 2020</i> filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
10/15/2021	<u>2934</u> Adversary case 21-03076. Complaint by Marc Kirschner against James D. Dondero, Mark Okada, Scott Ellington, Isaac Leventon, Grant James Scott III, Frank Waterhouse, STRAND ADVISORS, INC, NexPoint Advisors, L.P., Highland Capital Management Fund Advisors, L.P., DUGABOY INVESTMENT TRUST AND NANCY DONDERO, AS TRUSTEE OF DUGABOY INVESTMENT TRUST, GET GOOD TRUST AND GRANT JAMES SCOTT III, AS TRUSTEE OF GET GOOD TRUST, Hunter Mountain Investment Trust, MARK & PAMELA OKADA FAMILY TRUST EXEMPT TRUST #1 AND LAWRENCE TONOMURA AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST EXEMPT TRUST #1, MARK & PAMELA OKADA FAMILY TRUST EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST EXEMPT TRUST #2, CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD., Charitable DAF Fund, LP, Highland Dallas Foundation, Inc., RAND PE FUND I, LP, SERIES 1, MASSAND CAPITAL, LLC, MASSAND CAPITAL, INC., SAS ASSET RECOVERY, LTD, CPCM, LLC. Fee Amount \$350. Nature(s) of suit: 13 (Recovery of money/property §548 fraudulent transfer. 14 (Recovery of money/property – other). 91 (Declaratory judgment). 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 81 (Subordination of claim or interest). (Montgomery, Paige) MODIFIED TO ADD NATURE OS SUIT AND CORRECT DEFENDANT NAME on 10/18/2021 (Ecker, C.). Modified on 10/18/2021 (Ecker, C.).
10/18/2021	<u>2935</u> Motion to appear pro hac vice for Frank Grese. Fee Amount \$100 Filed by Interested Party CPCM, LLC (Smith, Frances)
10/18/2021	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29061543, amount \$ 100.00 (re: Doc# <u>2935</u> ). (U.S. Treasury)
10/18/2021	<u>2936</u> Certificate of no Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2871</u> Application for compensation ( <i>Seventeenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from May 1, 2021 through May 31, 2021</i> ) for Hayward PLLC, Debtor's Att). (Annable, Zachery)
10/18/2021	Adversary case 3:20-ap-3195 closed Pursuant to LBR 9070-1, any exhibits that were admitted by the Court may be claimed and removed from the Clerks Office during the 60-day period following final disposition of a case by the attorney or party who introduced

	<p>the exhibits. Any exhibit not removed within the 60-day period may be destroyed or otherwise disposed of by the Bankruptcy Clerk. (Ecker, C.)</p>
10/18/2021	<p><u>2937</u> Certificate of service re: Documents Served on October 12, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP filed by Other Professional Deloitte Tax LLP, <u>2913</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2893</u> Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. (<i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i>) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/30/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2893</u>, filed by Debtor Highland Capital Management, L.P., <u>2914</u> Appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2840</u> Notice of appeal, <u>2841</u> Amended notice of appeal, <u>2879</u> Statement of issues on appeal). filed by Debtor Highland Capital Management, L.P., <u>2917</u> Amended appellee designation of contents for inclusion in record of appeal filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2914</u> Appellee designation). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/18/2021	<p><u>2938</u> Certificate of service re: Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors. Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement</i></p>

	<p><i>of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/19/2021	<p><u>2939</u> Motion for leave (<i>Amended Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation</i>) (related document(s) <u>2856</u> Motion for leave) Filed by Debtor Highland Capital Management, L.P. Objections due by 11/9/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)</p>
10/19/2021	<p><u>2940</u> Amended Motion to disallow claims (<i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i>) (related document(s):<u>2857</u>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)</p>
10/20/2021	<p><u>2941</u> Order granting application for compensation (related document # <u>2585</u>) granting for Official Committee of Unsecured Creditors, fees awarded: \$1527522.75, expenses awarded: \$32957.78 Entered on 10/20/2021. (Okafor, Marcey)</p>
10/20/2021	<p><u>2942</u> Order granting motion to appear pro hac vice adding Frank Grese for CPCM, LLC (related document # <u>2935</u>) Entered on 10/20/2021. (Okafor, Marcey)</p>
10/20/2021	<p><u>2943</u> Notice (<i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2021 through August 11, 2021</i>) filed by Development Specialists, Inc.(RE: related document(s)<u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u>) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery) MODIFIED TO CORRECT PARTY FILER on 10/21/2021 (Ecker, C.).</p>
10/21/2021	<p><u>2944</u> Agreed Motion for ex parte relief<i>effectuating Stipulation and Order and Disbursing Registry Funds to CLO HoldCo</i> Filed by Interested Party CLO Holdco, Ltd. (Attachments: # <u>1</u> Proposed Order) (Phillips, Louis)</p>
10/21/2021	<p><u>2945</u> Certificate of service re: (Supplemental) re 1) Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals; and 2) Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2700</u> Notice (<i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021,</p>



	<p>Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation <i>(Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021)</i> for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation <i>(Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021)</i> for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
10/21/2021	<u>2946</u> Order effectuating stipulation and order and disbursing registry funds to CLO Holdco (related document # <u>2944</u> ) Entered on 10/21/2021. (Okafor, Marcey)
10/21/2021	<u>2947</u> Reply to (related document(s): <u>2933</u> Response to objection to claim filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/21/2021	<u>2948</u> Reply to (related document(s): <u>2932</u> Response to objection to claim filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/21/2021	<u>2949</u> Chapter 11 Post-Confirmation Report for the Quarter Ending: 09/30/2021 filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Global Notes to Post-Confirmation Report) (Annable, Zachery)
10/22/2021	<u>2950</u> Order granting motion to appear pro hac vice adding Robert S. Loigman for Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust (related document # <u>2930</u> ) Entered on 10/22/2021. (Rielly, Bill)
10/22/2021	<u>2951</u> Order granting motion to appear pro hac vice adding Alexandre J. Tschumi for Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust (related

	document # <u>2931</u> ) Entered on 10/22/2021. (Rielly, Bill)
10/22/2021	<u>2952</u> Reply to (related document(s): <u>2927</u> Response filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
10/22/2021	<u>2953</u> Certificate of service re: 1) Amended Motion of the Reorganized Debtor for an Order Authorizing Entry Into an Amended and Restated Employee Stipulation; and 2) Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2939</u> Motion for leave ( <i>Amended Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation</i> ) (related document(s) <u>2856</u> Motion for leave) Filed by Debtor Highland Capital Management, L.P. Objections due by 11/9/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P., <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/22/2021	<u>2954</u> Witness and Exhibit List ( <i>Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on October 25, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2819</u> Objection to claim). (Attachments: # <u>1</u> Exhibit 1) (Annable, Zachery)
10/22/2021	<u>2955</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2942</u> Order granting motion to appear pro hac vice adding Frank Grese for CPCM, LLC (related document <u>2935</u> ) Entered on 10/20/2021.) No. of Notices: 1. Notice Date 10/22/2021. (Admin.)
10/24/2021	<u>2956</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2950</u> Order granting motion to appear pro hac vice adding Robert S. Loigman for Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust (related document <u>2930</u> ) Entered on 10/22/2021.) No. of Notices: 1. Notice Date 10/24/2021. (Admin.)
10/24/2021	<u>2957</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2951</u> Order granting motion to appear pro hac vice adding Alexandre J. Tschumi for Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust (related document <u>2931</u> ) Entered on 10/22/2021.) No. of Notices: 1. Notice Date 10/24/2021. (Admin.)
10/25/2021	<u>2958</u> Reply to (related document(s): <u>2947</u> Reply filed by Debtor Highland Capital Management, L.P.) <i>Resonse to Highland Capital Management, L.P.'s Reply in Support of its Objection to Proof of Claim Number 131 filed by The Dugaboy Investment Trust on April 8, 2020 with Certificate of Service</i> filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
10/25/2021	<u>2959</u> Reply to (related document(s): <u>2948</u> Reply filed by Debtor Highland Capital Management, L.P.) <i>Response to Highland Capital Management, L.P.'s Reply in Support of its Objection to Proof of Claim Number 177 filed by The Dugaboy Investment Trust on April 23, 2020 with Certificate of Service</i> filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
10/25/2021	<u>2960</u> Hearing held on 10/25/2021. (RE: related document(s) <u>2796</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust filed by Debtor Highland Capital Management, L.P., (Appearances: G. Demo and J. Pomeranz for Reorganized Debtor; D. Draper for Dugaboy (with N. Dondero). Nonevidentiary hearing. Agreed Order disallowing claim will be submitted.) (Edmond, Michael)
10/25/2021	

	2961 Hearing held on 10/25/2021. (RE: related document(s) <u>2819</u> Objection to claim(s) of Creditor(s) The Dugaboy Investment Trust filed by Debtor Highland Capital Management, L.P., (Appearances: G. Demo and J. Pomeranz for Reorganized Debtor; D. Draper for Dugaboy (with N. Dondero). Nonevidentiary hearing. Agreed Order disallowing claim will be submitted.) (Edmond, Michael)
10/25/2021	<u>2962</u> PDF with attached Audio File. Court Date & Time [10/25/2021 01:27:43 PM]. File Size [ 2701 KB ]. Run Time [ 00:11:36 ]. (admin).
10/25/2021	<u>2963</u> Certificate of service re: Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2021 Through August 11, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2943</u> Notice ( <i>Notice of Filing of Monthly Staffing Report by Development Specialists, Inc. for the Period from August 1, 2021 through August 11, 2021</i> ) filed by Development Specialists, Inc.(RE: related document(s) <u>853</u> Order granting application to employ Development Specialists, Inc. as Other Professional (related document <u>775</u> ) Entered on 7/16/2020. (Ecker, C.)). (Annable, Zachery) MODIFIED TO CORRECT PARTY FILER on 10/21/2021 (Ecker, C.). filed by Financial Advisor Development Specialists, Inc.). (Kass, Albert)
10/27/2021	<u>2964</u> Certificate of service re: 1) Highland Capital Management, L.P.'s Reply in Support of its Objection to Proof of Claim Number 131 Filed by The Dugaboy Investment Trust on April 8, 2020; and 2) Highland Capital Management, L.P.'s Reply in Support of its Objection to Proof of Claim Number 177 Filed by The Dugaboy Investment Trust on April 23, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2947</u> Reply to (related document(s): <u>2933</u> Response to objection to claim filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2948</u> Reply to (related document(s): <u>2932</u> Response to objection to claim filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/27/2021	<u>2965</u> Order regarding objection to claim #177 filed by The Dugaboy Investment Trust (RE: related document(s) <u>2819</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/27/2021 (Okafor, Marcey) Modified text on 10/27/2021 (Okafor, Marcey).
10/27/2021	<u>2966</u> Order regarding objection to claim #131 filed by The Dugaboy Investment Trust (RE: related document(s) <u>2796</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/27/2021 (Okafor, Marcey)
10/27/2021	<u>2967</u> Certificate of service re: 1) Highland's Reply in Support of Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief; and 2) Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on October 25, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2952</u> Reply to (related document(s): <u>2927</u> Response filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2954</u> Witness and Exhibit List ( <i>Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on October 25, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2819</u> Objection to claim). (Attachments: # 1 Exhibit 1) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
10/28/2021	<u>2968</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2864</u> Objection to claim). (Annable, Zachery)
11/01/2021	<u>2969</u> Order sustaining reorganized debtor's fourth omnibus objection to certain amended and superseded claims; and no-liability claims (RE: related document(s) <u>2864</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/1/2021 (Okafor,

	Marcey)
11/01/2021	<u>2970</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2905</u> Application for compensation ( <i>Eighteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from June 1, 2021 through June 30, 2021</i> ) for Hayward PLLC, Debtor's At). (Annable, Zachery)
11/01/2021	<u>2971</u> Certificate of No Objection filed by Other Professional Hayward PLLC (RE: related document(s) <u>2909</u> Application for compensation ( <i>Nineteenth Monthly Application for Compensation and Reimbursement of Expenses of Hayward PLLC as Local Counsel to the Debtor for the Period from July 1, 2021 through August 11, 2021</i> ) for Hayward PLLC, Debtor's). (Annable, Zachery)
11/01/2021	<u>2972</u> Certificate of service re: 1) Order re: Objection to Proof of Claim Number 177 Filed by The Dugaboy Investment Trust on April 23, 2020; and 2) Order re: Objection to Proof of Claim Number 131 Filed by The Dugaboy Investment Trust on April 8, 2020 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2965</u> Order regarding objection to claim #177 filed by The Dugaboy Investment Trust (RE: related document(s) <u>2819</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/27/2021 (Okafor, Marcey) Modified text on 10/27/2021., <u>2966</u> Order regarding objection to claim #131 filed by The Dugaboy Investment Trust (RE: related document(s) <u>2796</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 10/27/2021). (Kass, Albert)
11/01/2021	<u>2973</u> Certificate of service re: (Supplemental) re Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2915</u> Omnibus Notice of hearing ( <i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2872</u> Application for compensation ( <i>FINAL</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee:



	<p>\$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/01/2021	<p><u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Annable, Zachery)</p>
11/02/2021	<p><u>2975</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s)<u>2889</u> Motion to Strike (related document(s) <u>2852</u> Application for compensation) Filed by Other Professional Eastern Point Trust Company, Inc.) Responses due by 11/9/2021. (Ecker, C.)</p>
11/02/2021	<p><u>2976</u> Amended Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCM, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s)<u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Attachments: # <u>1</u> Appendix A # <u>2</u> Appendix B # <u>3</u> Exhibit A # <u>4</u> Exhibit B # <u>5</u> Exhibit C) (Annable, Zachery). Modified on 11/3/2021 (Rielly, Bill).</p>
11/02/2021	

	<p><u>2977</u> Omnibus Objection to (related document(s): <u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. filed by Financial Advisor FTI Consulting, Inc., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. filed by Other Professional Teneo Capital, LLC, <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$21 filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 1</i> filed by Debtor Highland Capital Management, L.P., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Couns</i> filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021 for Merc</i> filed by Consultant Mercer (US) Inc., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/1 filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other filed by Other Professional Deloitte Tax LLP) filed by Interested Party NexPoint Advisors, L.P.. (Attachments: # <u>1</u> Exhibit A: Declaration of Bruce A. Markell) (Jain, Kristin)</p>
11/03/2021	<u>2978</u> Motion to appear pro hac vice for Samuel A. Schwartz. Fee Amount \$100 Filed by Interested Party NexPoint Advisors, L.P. (Jain, Kristin)
11/03/2021	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29100285, amount \$ 100.00 (re: Doc# <u>2978</u> ). (U.S. Treasury)
11/03/2021	<u>2979</u> Motion to appear pro hac vice for Athanasios E. Agelakopoulos. Fee Amount \$100 Filed by Interested Party NexPoint Advisors, L.P. (Jain, Kristin)
11/03/2021	<u>2980</u> Motion to appear pro hac vice for Emily D. Anderson. Fee Amount \$100 Filed by Interested Party NexPoint Real Estate Advisors, L.P. (Jain, Kristin)
11/03/2021	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29100347, amount \$ 100.00 (re: Doc# <u>2979</u> ). (U.S. Treasury)
11/03/2021	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29100347, amount \$ 100.00 (re: Doc# <u>2980</u> ). (U.S. Treasury)
11/03/2021	<u>2981</u> Motion to appear pro hac vice for Jordan A. Kroop. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Hayward, Melissa)
11/03/2021	

	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgi11</u> ) [motion,mprohac] ( 100.00). Receipt number A29100707, amount \$ 100.00 (re: Doc# <u>2981</u> ). (U.S. Treasury)
11/04/2021	<u>2982</u> Certificate of service re: Order Sustaining Reorganized Debtors Fourth Omnibus Objection to Certain (A) Amended and Superseded Claims; and (B) No-Liability Claims Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2969</u> Order sustaining reorganized debtor's fourth omnibus objection to certain amended and superseded claims; and no-liability claims (RE: related document(s) <u>2864</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/1/2021). (Kass, Albert)
11/04/2021	<u>2983</u> Certificate of service re: Reorganized Debtor's Amended Supplemental Omnibus Objection to Certain Employee Claims Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2976</u> Amended Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCM, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s) <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Attachments: # 1 Appendix A # 2 Appendix B # 3 Exhibit A # 4 Exhibit B # 5 Exhibit C) (Annable, Zachery). Modified on 11/3/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/04/2021	<u>2984</u> BNC certificate of mailing. (RE: related document(s) <u>2975</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>2889</u> Motion to Strike (related document(s) <u>2852</u> Application for compensation) Filed by Other Professional Eastern Point Trust Company, Inc.) Responses due by 11/9/2021. (Ecker, C.)) No. of Notices: 1. Notice Date 11/04/2021. (Admin.)
11/05/2021	<u>2985</u> Order granting motion to appear pro hac vice adding Samuel A. Schwartz for NexPoint Advisors, L.P. (related document # <u>2978</u> ) Entered on 11/5/2021. (Okafor, Marcey)
11/05/2021	<u>2986</u> Order granting motion to appear pro hac vice adding Athanasios E. Agelakopoulos for NexPoint Advisors, L.P. (related document # <u>2979</u> ) Entered on 11/5/2021. (Okafor, Marcey)
11/05/2021	<u>2987</u> Order granting motion to appear pro hac vice adding Emily D. Anderson for NexPoint Advisors, L.P. (related document # <u>2980</u> ) Entered on 11/5/2021. (Okafor, Marcey)
11/05/2021	

	<u>2988</u> Reply to (related document(s): <u>2977</u> Objection filed by Interested Party NexPoint Advisors, L.P.) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/05/2021	<u>2989</u> Order granting motion to appear pro hac vice adding Jordan A. Kroop for Highland Capital Management, L.P. (related document # <u>2981</u> ) Entered on 11/5/2021. (Okafor, Marcey)
11/05/2021	<u>2990</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 113 Filed by The Dugaboy Investment Trust as Successor-in-Interest to The Canis Major Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/05/2021	<u>2991</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 120 Filed by The Get Good Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/05/2021	<u>2992</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 128 Filed by The Get Good Non-Exempt Trust No. 1 Individually and as Successor-in-Interest to The Canis Major Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/05/2021	<u>2993</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 129 Filed by The Get Good Non-Exempt Trust No. 2 Individually and as Successor-in-Interest to The Canis Major Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/05/2021	<u>2994</u> Response opposed to (related document(s): <u>2977</u> Objection filed by Interested Party NexPoint Advisors, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
11/07/2021	<u>2995</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2985</u> Order granting motion to appear pro hac vice adding Samuel A. Schwartz for NexPoint Advisors, L.P. (related document <u>2978</u> ) Entered on 11/5/2021.) No. of Notices: 1. Notice Date 11/07/2021. (Admin.)
11/07/2021	<u>2996</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2986</u> Order granting motion to appear pro hac vice adding Athanasios E. Agelakopoulos for NexPoint Advisors, L.P. (related document <u>2979</u> ) Entered on 11/5/2021.) No. of Notices: 1. Notice Date 11/07/2021. (Admin.)
11/07/2021	<u>2997</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>2987</u> Order granting motion to appear pro hac vice adding Emily D. Anderson for NexPoint Advisors, L.P. (related document <u>2980</u> ) Entered on 11/5/2021.) No. of Notices: 1. Notice Date 11/07/2021. (Admin.)
11/09/2021	<u>2998</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>2868</u> Application for administrative expenses <i>for rank-and-file employees</i> Filed by Interested Party CPCM, LLC (Attachments: # 1 Proposed Order), <u>2869</u> Application for administrative expenses Filed by Interested Party CPCM, LLC (Attachments: # 1 Proposed Order)) Responses due by 11/23/2021. (Ecker, C.)
11/09/2021	<u>2999</u> Adversary case 21-03082. Complaint by Highland Capital Management, L.P. against Highland Capital Management Fund Advisors, L.P.. Fee Amount \$350 (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Adversary Cover Sheet). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). 11 (Recovery of money/property – 542 turnover of property). (Annable, Zachery)



11/09/2021	<u>3000</u> Objection to claim(s) of Creditor(s) Jean-Paul Sevilla.. Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) (Montgomery, Paige)
11/09/2021	<u>3001</u> Omnibus Objection to claim(s) of Creditor(s) Jean-Paul Sevilla, Scott Ellington, Isaac Leventon, Frank Waterhouse, CLO Holdco, Ltd... Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # <u>1</u> Exhibit A) (Montgomery, Paige)
11/09/2021	<u>3002</u> Objection to claim(s) of Creditor(s) Hunter Covitz.. Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Montgomery, Paige)
11/10/2021	<u>3003</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2939</u> Motion for leave ( <i>Amended Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation</i> ) (related document(s) <u>2856</u> Motion for leave)). (Annable, Zachery)
11/10/2021	<u>3004</u> Chapter 11 Post-Confirmation Report for the Quarter Ending: 09/30/2021 filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Global Notes to Post-Confirmation Report) (Annable, Zachery)
11/10/2021	<u>3005</u> Chapter 11 Post-Confirmation Report for the Quarter Ending: 09/30/2021 filed by Other Professional Highland Claimant Trust. (Attachments: # <u>1</u> Global Notes to Post-Confirmation Report) (Annable, Zachery)
11/10/2021	<u>3006</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2828</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 12/1/2021. (Annable, Zachery)
11/10/2021	<u>3007</u> Order approving stipulation and agreed order authorizing withdrawal of proof of claim 113 filed by The Dugaboy Investment Trust as Successor-in-Interest to The Canis Major Trust (RE: related document(s) <u>2990</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021 (Okafor, Marcey)
11/10/2021	<u>3008</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 120 Filed by The Get Good Trust(RE: related document(s) <u>2991</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021 (Okafor, Marcey)
11/10/2021	<u>3009</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 128 Filed by The Get Good Non-Exempt Trust No. 1 Individually and as Successor-in-Interest to The Canis Major Trust (RE: related document(s) <u>2992</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021 (Okafor, Marcey)
11/10/2021	<u>3010</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 129 Filed by The Get Good Non-Exempt Trust No. 2 Individually and as Successor-in-Interest to The Canis Major Trust (RE: related document(s) <u>2993</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021 (Okafor, Marcey)
11/10/2021	<u>3011</u> INCORRECT ENTRY: Filed in AP at docket #69. Motion to stay pending appeal <i>Amended</i> (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Creditor CLO Holdco, Ltd., Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP

	(Attachments: # <u>1</u> Exhibit A–Motion to Withdraw Reference) (Bridges, Jonathan) MODIFIED and terminated on 1/10/2022 (Ecker, C.).
11/11/2021	<u>3012</u> Certificate of service re: Various Documents Served on November 5, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2988</u> Reply to (related document(s): <u>2977</u> Objection filed by Interested Party NexPoint Advisors, L.P.) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2990</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 113 Filed by The Dugaboy Investment Trust as Successor–in–Interest to The Canis Major Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2991</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 120 Filed by The Get Good Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2992</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 128 Filed by The Get Good Non–Exempt Trust No. 1 Individually and as Successor–in–Interest to The Canis Major Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2993</u> Withdrawal of claim(s): ( <i>Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 129 Filed by The Get Good Non–Exempt Trust No. 2 Individually and as Successor–in–Interest to The Canis Major Trust</i> ) Filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/11/2021	<u>3013</u> Certificate of service re: (Supplemental) re 1) First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.; 2) Agreed Scheduling Order on Debtors Third Omnibus Objection to Certain No Liability Claims; and 3) Reorganized Debtor's Amended Supplemental Omnibus Objection to Certain Employee Claims Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>2768</u> Agreed Scheduling Order on Debtor's third omnibus objection to certain no liability claims (related document <u>2226</u> and <u>2267</u> ). Hearing to be held on 12/15/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2059</u> , Entered on 8/24/2021. (Okafor, M.), <u>2870</u> Notice ( <i>First Notice of Allowed Claims Pursuant to the Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> ) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>2976</u> Amended Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCM, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s) <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Attachments: # 1 Appendix A # 2 Appendix B # 3 Exhibit A # 4 Exhibit B # 5 Exhibit C) (Annable, Zachery). Modified on 11/3/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)

11/12/2021	<p><u>3014</u> Certificate of service re: (Supplemental) Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/12/2021	<p><u>3015</u> Supplemental Response opposed to (related document(s): <u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. filed by Financial Advisor FTI Consulting, Inc., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. filed by Other Professional Teneo Capital, LLC, <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Aty, Period: 10/29/2019 to</p>



	<p>8/11/2021, Fee: \$13,134,805.2, Expenses: \$21 filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 1</i> filed by Debtor Highland Capital Management, L.P., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Couns</i> filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021 for Merc</i> filed by Consultant Mercer (US) Inc., <u>2910</u> Application for compensation <i>(Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/1</i> filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation <i>(Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021) for Deloitte Tax LLP, Other</i> filed by Other Professional Deloitte Tax LLP) filed by Interested Party NexPoint Advisors, L.P.. (Attachments: # <u>1</u> Exhibit Declaration of Joseph Tiano, Chief Executive Officer of Legal Decoder) (Jain, Kristin)</p>
11/12/2021	<p><u>3016</u> Certificate of service re: (Supplemental) 1) Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.; and 2) Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2700</u> Notice (<i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>1943</u> Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s)<u>1472</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)). filed by Debtor Highland Capital Management, L.P., <u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other</p>



	<p>Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/13/2021	<p><u>3017</u> Witness and Exhibit List (<i>Reorganized Debtor's Witness and Exhibit List with Respect to Hearing on Final Fee Applications to Be Held on November 17, 2021</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 1, 2021</i>, <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Couns</i>, <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Merc, <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/1, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other). (Annable, Zachery)</p>
11/15/2021	<p><u>3018</u> Scheduling Order continuing hearing (RE: related document(s)<u>2872</u> Application for compensation filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, <u>2902</u> Application for compensation filed by Financial Advisor FTI Consulting, Inc., <u>2903</u> Application for compensation filed by Other Professional Teneo Capital, LLC, <u>2904</u> Application for compensation filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2906</u> Application for compensation filed by Debtor Highland Capital Management, L.P., <u>2907</u> Application for compensation filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, <u>2908</u> Application for compensation filed by Consultant Mercer (US) Inc., <u>2910</u> Application for compensation filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/17/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2904</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2902</u> and for <u>2903</u> and for <u>2907</u> and for <u>2910</u> and for <u>2906</u>, Entered on 11/15/2021 (Okafor, Marcey)</p>
11/15/2021	<p><u>3019</u> Order Granting Amended Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation (related document # <u>2939</u>) Entered on 11/15/2021. (Okafor, Marcey)</p>
11/16/2021	

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	<u>3020</u> Supplemental Reply to (related document(s): <u>2977</u> Objection filed by Interested Party NexPoint Advisors, L.P., <u>3015</u> Response filed by Interested Party NexPoint Advisors, L.P.) ( <i>Supplemental Reply of Debtor Professionals to Supplemental Omnibus Response of NexPoint Advisors, L.P., to Final Fee Applications Submitted by Various Estate Professionals</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/16/2021	<u>3023</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on November 17, 2021 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
11/16/2021	<u>3024</u> Supplemental Response opposed to (related document(s): <u>2977</u> Objection filed by Interested Party NexPoint Advisors, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. (Hoffman, Juliana)
11/16/2021	<u>3025</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3006</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2828</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 12/1/2021.). Hearing to be held on 12/7/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3006</u> , (Annable, Zachery)
11/16/2021	<u>3026</u> Certificate of service re: Various Documents Served on November 10, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3000</u> Objection to claim(s) of Creditor(s) Jean-Paul Sevilla.. Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust, <u>3001</u> Omnibus Objection to claim(s) of Creditor(s) Jean-Paul Sevilla, Scott Ellington, Isaac Leventon, Frank Waterhouse, CLO Holdco, Ltd... Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust, <u>3002</u> Objection to claim(s) of Creditor(s) Hunter Covitz.. Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust, <u>3006</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2828</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 12/1/2021. filed by Debtor Highland Capital Management, L.P., <u>3007</u> Order approving stipulation and agreed order authorizing withdrawal of proof of claim 113 filed by The Dugaboy Investment Trust as Successor-in-Interest to The Canis Major Trust (RE: related document(s) <u>2990</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021, <u>3008</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 120 Filed by The Get Good Trust(RE: related document(s) <u>2991</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021, <u>3009</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 128 Filed by The Get Good Non-Exempt Trust No. 1 Individually and as Successor-in-Interest to The Canis Major Trust (RE: related document(s) <u>2992</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021, <u>3010</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proof of Claim 129 Filed by The Get Good Non-Exempt Trust No. 2 Individually and as Successor-in-Interest to The Canis Major Trust (RE: related document(s) <u>2993</u> Withdrawal of claim filed by Debtor Highland Capital Management, L.P.). Entered on 11/10/2021). (Kass, Albert)
11/16/2021	<u>3027</u> Certificate of service re: Notice of Agenda of Matters Scheduled for Hearing on November 17, 2021 at 9:30 a.m. (Central Time) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3023</u> Notice ( <i>Notice of Agenda of Matters Scheduled for Hearing on November 17, 2021 at 9:30 a.m. (Central Time)</i> ) filed by Debtor Highland

	Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/17/2021	<u>3028</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3019</u> Order Granting Amended Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation (related document <u>2939</u> ) Entered on 11/15/2021.) No. of Notices: 1. Notice Date 11/17/2021. (Admin.)
11/17/2021	<u>3029</u> Court admitted exhibits date of hearing November 17, 2021 (RE: related document(s) <u>2872</u> Application for compensation (FINAL) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation The Twenty–First and Final Fee Application for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation Second Consolidated Monthly and Final Fee Application for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation Twenty–First Monthly and Final Fee Application of Sidley Austin LLP for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021 for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021 for Mercer (US) Inc., Consultant, filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021) for Hayward PLLC, Debtor's Attorney, filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021) for Deloitte Tax LLP, Other Professional, filed by Other Professional Deloitte Tax LLP) (COURT ADMITTED ALL OF THE EXHIBIT'S THAT APPEAR ON DOC. #3017 BY JEFFREY POMERANTZ), (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	<u>3033</u> Hearing held on 11/17/2021. (RE: related document(s) <u>2872</u> Application for compensation (FINAL) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, (Appearances: G. Hesse for Applicant; J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	<u>3034</u> Hearing held on 11/17/2021. (RE: related document(s) <u>2902</u> Application for compensation The Twenty–First and Final Fee Application for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, filed by Financial Advisor FTI Consulting, Inc., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled.

	Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	3035 Hearing held on 11/17/2021. (RE: related document(s) <a href="#">2903</a> Application for compensation Second Consolidated Monthly and Final Fee Application for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, filed by Other Professional Teneo Capital, LLC., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	3036 Hearing held on 11/17/2021. (RE: related document(s) <a href="#">2904</a> Application for compensation Twenty-First Monthly and Final Fee Application of Sidley Austin LLP for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, filed by Creditor Committee Official Committee of Unsecured Creditors.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	3037 Hearing held on 11/17/2021. (RE: related document(s) <a href="#">2906</a> Application for compensation Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl & Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, filed by attorney Jeffrey Nathan Pomerantz.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	3038 Hearing held on 11/17/2021. (RE: related document(s) <a href="#">2907</a> Application for compensation Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021 for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP., (Appearances: T. Silva for Applicant; J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	3039 Hearing held on 11/17/2021. (RE: related document(s) <a href="#">2908</a> Application for compensation Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021 for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, filed by Consultant Mercer (US) Inc. (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/17/2021	3040 Hearing held on 11/17/2021. (RE: related document(s) <a href="#">2910</a> Application for compensation (Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, filed by Other Professional Hayward PLLC) (Appearances: Z. Annabel for Applicant; J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)



11/17/2021	<u>3041</u> Hearing held on 11/17/2021. (RE: related document(s) <u>2911</u> Application for compensation (Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, filed by Other Professional Deloitte Tax LLP) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.) (Edmond, Michael) (Entered: 11/18/2021)
11/18/2021	<u>3030</u> Request for transcript regarding a hearing held on 11/17/2021. The requested turn-around time is hourly. (Edmond, Michael)
11/18/2021	<u>3031</u> <i>Withdrawal of Application for Allowance of Administrative Expense Claim</i> filed by Interested Parties NexBank, NexBank Capital Inc., NexBank Securities Inc., NexBank Title Inc. (RE: related document(s) <u>1888</u> Application for administrative expenses). (Drawhorn, Lauren)
11/18/2021	<u>3032</u> Response opposed to (related document(s): <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) filed by Debtor Highland Capital Management, L.P.) filed by Interested Party CPCM, LLC. (Attachments: # <u>1</u> Exhibit A) (Soderlund, Eric)
11/18/2021	<u>3042</u> Certificate of service re: CPCM, LLCs Objection to Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502 filed by Interested Party CPCM, LLC (RE: related document(s) <u>3032</u> Response). (Soderlund, Eric)
11/18/2021	<u>3043</u> Certificate of service re: 1) Reorganized Debtor's Witness and Exhibit List with Respect to Hearing on Final Fee Applications to be Held on November 17, 2021; 2) Scheduling Order; and 3) Order Granting Amended Motion of the Reorganized Debtor for an Order Authorizing Entry Into an Amended and Restated Employee Stipulation Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3017</u> Witness and Exhibit List ( <i>Reorganized Debtor's Witness and Exhibit List with Respect to Hearing on Final Fee Applications to Be Held on November 17, 2021</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2872</u> Application for compensation ( <i>FINAL</i> ) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 1, 2907 Application for compensation Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Couns, 2908 Application for compensation Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021 for Merc, 2910 Application for compensation (Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/1, 2911 Application for compensation (Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021) for Deloitte Tax LLP, Other). filed by Debtor Highland Capital Management, L.P., <u>3018</u> Scheduling Order continuing hearing (RE: related document(s)<u>2872</u> Application for compensation filed by Interested Party Hunton Andrews Kurth LLP, Spec. Counsel Hunton Andrews Kurth LLP, <u>2902</u> Application for compensation filed by Financial Advisor FTI Consulting, Inc., <u>2903</u> Application for compensation filed by Other Professional Teneo Capital, LLC, <u>2904</u> Application for compensation filed by Creditor Committee Official Committee of Unsecured Creditors, <u>2906</u> Application for compensation filed by Debtor Highland Capital</i>

	<p><i>Management, L.P., 2907 Application for compensation filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP, 2908 Application for compensation filed by Consultant Mercer (US) Inc., 2910 Application for compensation filed by Other Professional Hayward PLLC, 2911 Application for compensation filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/17/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for 2904 and for 2872 and for 2911 and for 2908 and for 2902 and for 2903 and for 2907 and for 2910 and for 2906, Entered on 11/15/2021, 3019 Order Granting Amended Motion of the Reorganized Debtor for an Order Authorizing Entry into an Amended and Restated Employee Stipulation (related document 2939) Entered on 11/15/2021.). (Kass, Albert)</i></p>
11/18/2021	<p>3044 Certificate of service re: 1) Supplemental Reply of Debtor Professionals to Supplemental Omnibus Response of NexPoint Advisors, L.P., to Final Fee Applications Submitted by Various Estate Professionals; 2) Supplemental Response of Sidley Austin LLP, Attorneys for the Official Committee of Unsecured Creditors, to Supplemental Omnibus Response of NexPoint Advisors, L.P., Creditor and Party in Interest Pursuant to 11 U.S.C. § 330(a) and Federal Rule of Bankruptcy Procedure 2016 to Final Fee Applications Submitted by Various Estate Professionals; 3) Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)3020 Supplemental Reply to (related document(s): 2977 Objection filed by Interested Party NexPoint Advisors, L.P., 3015 Response filed by Interested Party NexPoint Advisors, L.P.) (<i>Supplemental Reply of Debtor Professionals to Supplemental Omnibus Response of NexPoint Advisors, L.P., to Final Fee Applications Submitted by Various Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., 3024 Supplemental Response opposed to (related document(s): 2977 Objection filed by Interested Party NexPoint Advisors, L.P.) filed by Creditor Committee Official Committee of Unsecured Creditors. filed by Creditor Committee Official Committee of Unsecured Creditors, 3025 Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)3006 Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s)2828 Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 12/1/2021.). Hearing to be held on 12/7/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for 3006, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
11/19/2021	<p>3045 Transcript regarding Hearing Held 11/17/2021 (68 pages) RE: Final Fee Applications. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/17/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, <a href="mailto:kathyrehlingtranscripts@gmail.com">kathyrehlingtranscripts@gmail.com</a>, Telephone number 972-786-3063. (RE: related document(s) 3033 Hearing held on 11/17/2021. (RE: related document(s)2872 Application for compensation (FINAL) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, (Appearances: G. Hesse for Applicant; J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3034 Hearing held on 11/17/2021. (RE: related document(s)2902 Application for compensation The Twenty-First and Final Fee Application for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, filed by Financial Advisor FTI Consulting, Inc., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3035 Hearing held on 11/17/2021. (RE: related document(s)2903 Application for compensation Second Consolidated Monthly and Final Fee Application for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, filed by Other Professional Teneo Capital, LLC., (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3036 Hearing held on 11/17/2021. (RE: related document(s)2904 Application for compensation Twenty-First Monthly and Final Fee</p>

	<p>Application of Sidley Austin LLP for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, filed by Creditor Committee Official Committee of Unsecured Creditors.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3037 Hearing held on 11/17/2021. (RE: related document(s)<a href="#">2906</a> Application for compensation Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021 for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, filed by attorney Jeffrey Nathan Pomerantz.) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3038 Hearing held on 11/17/2021. (RE: related document(s)<a href="#">2907</a> Application for compensation Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021 for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP., (Appearances: T. Silva for Applicant; J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3039 Hearing held on 11/17/2021. (RE: related document(s)<a href="#">2908</a> Application for compensation Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021 for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, filed by Consultant Mercer (US) Inc. (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3040 Hearing held on 11/17/2021. (RE: related document(s)<a href="#">2910</a> Application for compensation (Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, filed by Other Professional Hayward PLLC) (Appearances: Z. Annabel for Applicant; J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.), 3041 Hearing held on 11/17/2021. (RE: related document(s)<a href="#">2911</a> Application for compensation (Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, filed by Other Professional Deloitte Tax LLP) (Appearances: J. Pomeranz, J. Morris, and G. Demo for Reorganized Debtor; M. Clemente for former UCC; L. Lambert ofr UST; K. Jain and S. Schwartz for NexPoint Advisors. Evidentiary hearing. Application approved and objections overruled. Counsel to upload order.)). Transcript to be made available to the public on 02/17/2022. (Rehling, Kathy)</p>
11/22/2021	<p><a href="#">3046</a> Order granting final fee application for compensation (related document # <a href="#">2872</a>) granting for Hunton Andrews Kurth LLP, fees awarded: \$1147059.42, expenses awarded: \$2747.84 Entered on 11/22/2021. (Okafor, Marcey)</p>
11/22/2021	<p><a href="#">3047</a> Order granting fifth and final application for compensation (related document # <a href="#">2906</a>) granting for Jeffrey Nathan Pomerantz, fees awarded: \$23978627.25, expenses awarded: \$334232.95 Entered on 11/22/2021. (Okafor, Marcey)</p>
11/22/2021	<p><a href="#">3048</a> Order granting application for compensation (related document # <a href="#">2907</a>) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$2645729.72, expenses awarded: \$5207.53 Entered on 11/22/2021. (Okafor, Marcey)</p>

11/22/2021	<u>3049</u> Order granting application for compensation (related document # <u>2910</u> ) granting for Hayward PLLC, fees awarded: \$825629.50, expenses awarded: \$46482.92 Entered on 11/22/2021. (Okafor, Marcey)
11/23/2021	<u>3050</u> Notice of CPCM, LLC's Response to Clerk's Correspondence filed by Interested Party CPCM, LLC (RE: related document(s) <u>2998</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>2868</u> Application for administrative expenses for rank-and-file employees Filed by Interested Party CPCM, LLC (Attachments: # 1 Proposed Order), <u>2869</u> Application for administrative expenses Filed by Interested Party CPCM, LLC (Attachments: # 1 Proposed Order)) Responses due by 11/23/2021. (Ecker, C.)). (Smith, Frances)
11/23/2021	<u>3051</u> Witness and Exhibit List for Hearing on November 30, 2021 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. (Debtor's Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief), <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. (Highland's Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and). (Attachments: # <u>1</u> Exhibits 1-13) (Hayward, Melissa)
11/23/2021	<u>3052</u> Witness and Exhibit List filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>2278</u> Response). (Attachments: # <u>1</u> Exhibit Exhibit 1. CONFIDENTIAL Highland246786 - 246818 # <u>2</u> Exhibit Exhibit 2. CONFIDENTIAL Highland209134 # <u>3</u> Exhibit Exhibit 3. SE Multifamily LLC Agreement # <u>4</u> Exhibit Exhibit 4. Bridge Loan Agreement # <u>5</u> Exhibit Exhibit 5. CONFIDENTIAL Highland136853 - 136883 # <u>6</u> Exhibit Exhibit 6. CONFIDENTIAL Highland136795 - 136822 # <u>7</u> Exhibit Exhibit 7. SE Multifamily Amended and Restated LLC Agreement # <u>8</u> Exhibit Exhibit 8. POC # <u>9</u> Exhibit Exhibit 9. Objection and Motion for Protective Order # <u>10</u> Exhibit Exhibit 10. Response to Omnibus Objection) (Drawhorn, Lauren)
11/23/2021	<u>3053</u> Notice of Appearance and Request for Notice Notice of Appearance of Additional Counsel - Jeffrey W. Hellberg, Jr. by Lauren Kessler Drawhorn Filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Drawhorn, Lauren)
11/24/2021	Adversary case 3:21-ap-3000 closed Pursuant to LBR 9070-1, any exhibits that were admitted by the Court may be claimed and removed from the Clerks Office during the 60-day period following final disposition of a case by the attorney or party who introduced the exhibits. Any exhibit not removed within the 60-day period may be destroyed or otherwise disposed of by the Bankruptcy Clerk. (Ecker, C.)
11/24/2021	<u>3054</u> Amended Witness and Exhibit List for Hearing on November 30, 2021 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3051</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibits 14 and 15) (Hayward, Melissa)
11/24/2021	<u>3055</u> BNC certificate of mailing - PDF document. (RE: related document(s) <u>3047</u> Order granting fifth and final application for compensation (related document <u>2906</u> ) granting for Jeffrey Nathan Pomerantz, fees awarded: \$23978627.25, expenses awarded: \$334232.95 Entered on 11/22/2021.) No. of Notices: 1. Notice Date 11/24/2021. (Admin.)
11/29/2021	<u>3056</u> Order granting application for compensation (related document # <u>2903</u> ) granting for Teneo Capital, LLC, fees awarded: \$1358565.52, expenses awarded: \$6257.07 Entered on 11/29/2021. (Okafor, Marcey)
11/29/2021	<u>3057</u> Order granting application for compensation (related document <u>2904</u> ) granting for Sidney Austin, LLP, Attorneys for the Official Committee of Unsecured Creditors, fees awarded: \$13134805.20, expenses awarded: \$211841.25 Entered on 11/29/2021. (Okafor, Marcey) Modified text on 11/29/2021 (Okafor, Marcey).



11/29/2021	<u>3058</u> Order granting application for compensation (related document # <u>2902</u> ) granting for FTI Consulting, Inc., fees awarded: \$6176551.20, expenses awarded: \$39122.91 Entered on 11/29/2021. (Okafor, Marcey)
11/29/2021	<u>3059</u> Order granting application for compensation (related document # <u>2908</u> ) granting for Mercer (US) Inc., fees awarded: \$202317.65, expenses awarded: \$2449.37 Entered on 11/29/2021. (Okafor, Marcey)
11/29/2021	<u>3060</u> Amended Witness and Exhibit List <i>for Hearing on November 30, 2021</i> filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (RE: related document(s) <u>3052</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 11. – Transcript of August 13, 2021 Deposition of Mark Patrick [ECF No. 2928] # <u>2</u> Exhibit 12. – Transcript of September 17, 2021 Deposition of Ben Selman # <u>3</u> Exhibit 13. – NREP Designation of Expert Witness # <u>4</u> Exhibit 14. – Index to Documents Examined by Expert) (Drawhorn, Lauren)
11/29/2021	<u>3061</u> Certificate of service re: Documents Served on November 23, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3046</u> Order granting final fee application for compensation (related document <u>2872</u> ) granting for Hunton Andrews Kurth LLP, fees awarded: \$1147059.42, expenses awarded: \$2747.84 Entered on 11/22/2021., <u>3047</u> Order granting fifth and final application for compensation (related document <u>2906</u> ) granting for Jeffrey Nathan Pomerantz, fees awarded: \$23978627.25, expenses awarded: \$334232.95 Entered on 11/22/2021., <u>3048</u> Order granting application for compensation (related document <u>2907</u> ) granting for Wilmer Cutler Pickering Hale and Dorr LLP, fees awarded: \$2645729.72, expenses awarded: \$5207.53 Entered on 11/22/2021., <u>3049</u> Order granting application for compensation (related document <u>2910</u> ) granting for Hayward PLLC, fees awarded: \$825629.50, expenses awarded: \$46482.92 Entered on 11/22/2021., <u>3051</u> Witness and Exhibit List <i>for Hearing on November 30, 2021</i> filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2196</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC. ( <i>Debtor's Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ), <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and</i> ). (Attachments: # <u>1</u> Exhibits 1–13) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
11/30/2021	<u>3062</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/30/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2893</u> , (Annable, Zachery)
11/30/2021	<u>3063</u> Certificate of service re: Various Documents Served on November 29, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3056</u> Order granting application for compensation (related document <u>2903</u> ) granting for Teneo Capital, LLC, fees awarded: \$1358565.52, expenses awarded: \$6257.07 Entered on 11/29/2021., <u>3057</u> Order granting application for compensation (related document <u>2904</u> ) granting for Sidney Austin, LLP, Attorneys for the Official Committee of Unsecured Creditors, fees awarded: \$13134805.20, expenses awarded: \$211841.25 Entered on 11/29/2021. (Okafor, Marcey) Modified text on 11/29/2021., <u>3058</u> Order granting application for compensation (related document <u>2902</u> ) granting for FTI Consulting, Inc., fees awarded: \$6176551.20, expenses awarded: \$39122.91 Entered on 11/29/2021., <u>3059</u> Order granting application for compensation (related document <u>2908</u> ) granting for Mercer (US) Inc., fees awarded: \$202317.65, expenses awarded: \$2449.37 Entered on 11/29/2021.). (Kass, Albert)
11/30/2021	<u>3065</u> Court admitted exhibits date of hearing November 30, 2021 (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP

	as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ), filed by Debtor Highland Capital Management, L.P.) (COURT ADMITTED DEBTOR'S / RE-ORGANIZED DEBTOR'S EXHIBIT'S #1 THROUGH #13 AT DOC. #3051 & EXHIBIT'S #14 & #15 AT DOC. #3054 BY JOHN A. MORRIS; AND DEFENDANT'S/RESPONDENT'S EXHIBIT'S #1 THROUGH #14 AT AMENDED DOC. 3060 BY JEFFREY W. HELLBERG, JR., (Edmond, Michael) (Entered: 12/01/2021)
11/30/2021	<u>3071</u> Hearing held on 11/30/2021. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief, (Highland's Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief), filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Morris for Reorganized Debtor; J. Hellberg for Wick Phillips and NexPoint Real Estate. Evidentiary hearing. Motion granted for reasons stated on the record. Mr Morris to upload order.) (Edmond, Michael) (Entered: 12/02/2021)
12/01/2021	<u>3064</u> Order granting application for compensation (related document # <u>2911</u> ) granting for Deloitte Tax LLP, fees awarded: \$553412.60, expenses awarded: \$0.00 Entered on 12/1/2021. (Okafor, Marcey)
12/01/2021	<u>3066</u> Motion for leave to <i>File Lawsuit</i> Filed by Creditor The Dugaboy Investment Trust Objections due by 12/22/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C) (Draper, Douglas)
12/01/2021	<u>3067</u> Certificate of service re: Second Amended Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3062</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief. ( <i>Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief</i> ) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 11/30/2021 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2893</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/01/2021	<u>3068</u> Certificate of service re: (Supplemental) re Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3025</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3006</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2828</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. Objections due by 12/1/2021.). Hearing to be held on 12/7/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3006</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/01/2021	<u>3069</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3059</u> Order granting application for compensation (related document <u>2908</u> ) granting for Mercer (US) Inc., fees awarded: \$202317.65, expenses awarded: \$2449.37 Entered on 11/29/2021.) No. of Notices: 1. Notice Date 12/01/2021. (Admin.)
12/02/2021	<u>3070</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3006</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>2828</u> Order on motion to extend/shorten time)). (Annable, Zachery)
12/02/2021	<u>3074</u> ***INCORRECT ENTRY*** Request for transcript regarding a hearing held on 11/30/2021. The requested turn-around time is daily (Jeng, Hawaii) Modified TEXT on 12/3/2021 (Jeng, Hawaii). (Entered: 12/03/2021)
12/03/2021	

	<u>3072</u> PDF with attached Audio File. Court Date & Time [11/17/2021 09:01:56 AM]. File Size [ 27292 KB ]. Run Time [ 01:56:50 ]. (admin).
12/03/2021	<u>3073</u> PDF with attached Audio File. Court Date & Time [11/30/2021 08:56:02 AM]. File Size [ 43946 KB ]. Run Time [ 03:08:47 ]. (admin).
12/03/2021	<u>3075</u> Request for transcript regarding a hearing held on 11/30/2021. The requested turn-around time is daily (Jeng, Hawaii) .
12/03/2021	<u>3076</u> Notice of appeal of <i>Order Granting Twenty-First and Final Fee Application of FTI Consulting, Inc.</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3058</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # <u>1</u> Exhibit Exh A to Notice of Appeal)(Jain, Kristin)
12/03/2021	Receipt of filing fee for Notice of appeal( <u>19-34054-sgj11</u> ) [appeal,ntcapl] ( 298.00). Receipt number A29168859, amount \$ 298.00 (re: Doc# <u>3076</u> ). (U.S. Treasury)
12/03/2021	<u>3077</u> Notice of appeal <i>Order Granting Fifth and Final Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Real Estate Advisors, L.P. (RE: related document(s) <u>3047</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # <u>1</u> Exhibit A to Notice of Appeal)(Jain, Kristin)
12/03/2021	Receipt of filing fee for Notice of appeal( <u>19-34054-sgj11</u> ) [appeal,ntcapl] ( 298.00). Receipt number A29168896, amount \$ 298.00 (re: Doc# <u>3077</u> ). (U.S. Treasury)
12/03/2021	<u>3078</u> Notice of appeal <i>Order Granting Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dore LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3048</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # <u>1</u> Exhibit A to Notice of Appeal)(Jain, Kristin)
12/03/2021	Receipt of filing fee for Notice of appeal( <u>19-34054-sgj11</u> ) [appeal,ntcapl] ( 298.00). Receipt number A29168917, amount \$ 298.00 (re: Doc# <u>3078</u> ). (U.S. Treasury)
12/03/2021	<u>3079</u> Notice of appeal of <i>Order Granting Second Consolidated Monthly and Final Fee Application of Teneo Capital, LLC</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3056</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # <u>1</u> Exhibit A to Notice of Appeal)(Jain, Kristin)
12/03/2021	Receipt of filing fee for Notice of appeal( <u>19-34054-sgj11</u> ) [appeal,ntcapl] ( 298.00). Receipt number A29168940, amount \$ 298.00 (re: Doc# <u>3079</u> ). (U.S. Treasury)
12/03/2021	<u>3080</u> Notice of appeal of <i>Order Granting Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3057</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # <u>1</u> Exhibit A to Notice of Appeal)(Jain, Kristin)
12/03/2021	Receipt of filing fee for Notice of appeal( <u>19-34054-sgj11</u> ) [appeal,ntcapl] ( 298.00). Receipt number A29168959, amount \$ 298.00 (re: Doc# <u>3080</u> ). (U.S. Treasury)
12/03/2021	<u>3081</u> Certificate of service re: Highland Capital Management, L.P.'s Amended Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on November 30, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3054</u> Amended Witness and Exhibit List for Hearing on November 30, 2021 filed by Debtor

	Highland Capital Management, L.P. (RE: related document(s) <u>3051</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibits 14 and 15) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/03/2021	<p><u>3082</u> Certificate of service re: Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals (<i>Supplemental</i>) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee: \$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/03/2021	<p><u>3083</u> Certificate of service re: Order Granting Deloitte Tax LLP's Final Fee Application for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 Through August 11, 2021 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>3064</u> Order granting application for compensation (related document <u>2911</u>) granting for Deloitte Tax LLP, fees awarded: \$553412.60, expenses awarded: \$0.00 Entered on 12/1/2021.). (Kass, Albert)</p>
12/05/2021	



	<p><u>3084</u> Transcript regarding Hearing Held 11/30/2021 (77 pages) RE: Motion to Disqualify. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 03/5/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 3071 Hearing held on 11/30/2021. (RE: related document(s) <u>2893</u> Motion to compel Disqualification of Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief, (Highland's Supplemental Motion to Disqualify Wick Phillips Gould &amp; Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief), filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Morris for Reorganized Debtor; J. Hellberg for Wick Phillips and NexPoint Real Estate. Evidentiary hearing. Motion granted for reasons stated on the record. Mr Morris to upload order.)). Transcript to be made available to the public on 03/5/2022. (Rehling, Kathy)</p>
12/06/2021	<p><u>3085</u> Order further extending period within which the reorganized debtor may remove actions pursuant to 28 U.S.C. section 1452 and rule 9027 of the federal rules of bankruptcy procedure <u>3006</u> Motion to extend time. Entered on 12/6/2021. (Bradden, T.)</p>
12/06/2021	<p><u>3086</u> Objection to claim(s) of Creditor(s) Paul N. Adkins.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G) (Annable, Zachery)</p>
12/07/2021	<p><u>3087</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3086</u> Objection to claim(s) of Creditor(s) Paul N. Adkins.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E # <u>6</u> Exhibit F # <u>7</u> Exhibit G)). Hearing to be held on 1/27/2022 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3086</u>, (Annable, Zachery)</p>
12/08/2021	<p><u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A) (Annable, Zachery)</p>
12/08/2021	<p><u>3089</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>)). (Attachments: # <u>1</u> Exhibit 1—Settlement Agreement) (Annable, Zachery)</p>
12/08/2021	<p><u>3090</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3085</u> Order further extending period within which the reorganized debtor may remove actions pursuant to 28 U.S.C. section 1452 and rule 9027 of the federal rules of bankruptcy procedure <u>3006</u> Motion to extend time. Entered on 12/6/2021. (Bradden, T.)) No. of Notices: 1. Notice Date 12/08/2021. (Admin.)</p>
12/09/2021	<p><u>3091</u> Stipulation by Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust and Scott Ellington, Isaac Leventon, Frank Waterhouse, and Jean-Paul Sevilla ***Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim Nos. 182, 184, 185, 187, 192, 214, 215, 242, 245, and 253. filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Proposed Order) (Montgomery, Paige)</p>

12/09/2021	<u>3092</u> Certificate of service re: 1) Order Further Extending Period Within Which the Reorganized Debtor May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure; and 2) Reorganized Debtor's Objection to Proof of Claim No. 65 and No. 66 Filed by Paul N. Adkins Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3085</u> Order further extending period within which the reorganized debtor may remove actions pursuant to 28 U.S.C. section 1452 and rule 9027 of the federal rules of bankruptcy procedure <u>3006</u> Motion to extend time. Entered on 12/6/2021. (Bradden, T.), <u>3086</u> Objection to claim(s) of Creditor(s) Paul N. Adkins.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/10/2021	<u>3094</u> Certificate of mailing regarding appeal (RE: related document(s) <u>3077</u> Notice of appeal <i>Order Granting Fifth and Final Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Real Estate Advisors, L.P. (RE: related document(s) <u>3047</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
12/10/2021	<u>3095</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>3077</u> Notice of appeal <i>Order Granting Fifth and Final Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Real Estate Advisors, L.P. (RE: related document(s) <u>3047</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3096</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-03086-K. (RE: related document(s) <u>3077</u> Notice of appeal <i>Order Granting Fifth and Final Application for Compensation and Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Real Estate Advisors, L.P. (RE: related document(s) <u>3047</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3097</u> Certificate of mailing regarding appeal (RE: related document(s) <u>3078</u> Notice of appeal <i>Order Granting Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dore LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3048</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
12/10/2021	<u>3098</u> INCORRECT ENTRY. Incomplete Form. Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>3078</u> Notice of appeal <i>Order Granting Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dore LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3048</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua) Modified on 12/10/2021 (Whitaker, Sheniqua).
12/10/2021	<u>3099</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>3078</u> Notice of appeal <i>Order Granting Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dore LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3048</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3100</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-03088-X. (RE: related document(s) <u>3078</u> Notice of appeal <i>Order Granting Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dore LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3048</u> Order on application for compensation). Appellant Designation due by

	12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3101</u> Certificate of mailing regarding appeal (RE: related document(s) <u>3079</u> Notice of appeal of <i>Order Granting Second Consolidated Monthly and Final Fee Application of Teneo Capital, LLC</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3056</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
12/10/2021	<u>3102</u> Agreed first amended scheduling order on Debtor's third omnibus objection to certain no-liability claims (RE: related document(s) <u>2059</u> Third Omnibus objection to certain no-liability claims <u>2976</u> Amended Supplemental Omnibus Objection to certain employee claims filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 2/16/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2976</u> , Entered on 12/10/2021 (Okafor, Marcey)
12/10/2021	<u>3103</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>3079</u> Notice of appeal of <i>Order Granting Second Consolidated Monthly and Final Fee Application of Teneo Capital, LLC</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3056</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3104</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-03094-E. (RE: related document(s) <u>3079</u> Notice of appeal of <i>Order Granting Second Consolidated Monthly and Final Fee Application of Teneo Capital, LLC</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3056</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3106</u> Order granting in part, denying in part Highland's supplemental motion to disqualify Wick Phillips Gould & Martin, LLP as counsel to HCRE Partners, LLC (related document # <u>2196</u> and <u>2893</u> ) Entered on 12/10/2021. (Okafor, Marcey)
12/10/2021	<u>3107</u> Certificate of mailing regarding appeal (RE: related document(s) <u>3080</u> Notice of appeal of <i>Order Granting Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3057</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)
12/10/2021	<u>3108</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>3080</u> Notice of appeal of <i>Order Granting Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3057</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3109</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-03096-L. (RE: related document(s) <u>3080</u> Notice of appeal of <i>Order Granting Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3057</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal)) (Whitaker, Sheniqua)
12/10/2021	<u>3110</u> Certificate of service re: Notice of Hearing on Reorganized Debtor's Objection to Proof of Claim No. 65 and No. 66 Filed by Paul N. Adkins Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3087</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3086</u> Objection to

	<p>claim(s) of Creditor(s) Paul N. Adkins.. Filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F # 7 Exhibit G)). Hearing to be held on 1/27/2022 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3086</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/10/2021	<p><u>3111</u> Certificate of service re: 1) Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith; and 2) Declaration of John A. Morris in Support of the Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A) filed by Debtor Highland Capital Management, L.P., <u>3089</u> Declaration re: (<i>Declaration of John A. Morris in Support of the Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>)). (Attachments: # 1 Exhibit 1—Settlement Agreement) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/10/2021	<p><u>3112</u> Certificate of service re: (Supplemental) re Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>2915</u> Omnibus Notice of hearing (<i>Omnibus Notice of Hearing on Final Applications for Compensation and Reimbursement of Expenses of Estate Professionals</i>) filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>2872</u> Application for compensation (<i>FINAL</i>) for Hunton Andrews Kurth LLP, Special Counsel, Period: 10/16/2019 to 8/11/2021, Fee: \$1,147,059.42, Expenses: \$2,747.84. Filed by Spec. Counsel Hunton Andrews Kurth LLP Objections due by 10/25/2021., <u>2902</u> Application for compensation <i>The Twenty-First and Final Fee Application</i> for FTI Consulting, Inc., Financial Advisor, Period: 11/6/2019 to 8/11/2021, Fee: \$6,176,551.20, Expenses: \$39,122.91. Filed by Financial Advisor FTI Consulting, Inc. Objections due by 10/29/2021., <u>2903</u> Application for compensation <i>Second Consolidated Monthly and Final Fee Application</i> for Teneo Capital, LLC, Other Professional, Period: 4/15/2021 to 8/11/2021, Fee: \$1,358,565.52, Expenses: \$6,257.07. Filed by Other Professional Teneo Capital, LLC Objections due by 10/29/2021., <u>2904</u> Application for compensation <i>Twenty-First Monthly and Final Fee Application of Sidley Austin LLP</i> for Official Committee of Unsecured Creditors, Creditor Comm. Atty, Period: 10/29/2019 to 8/11/2021, Fee: \$13,134,805.2, Expenses: \$211,841.25. Filed by Creditor Committee Official Committee of Unsecured Creditors Objections due by 10/29/2021., <u>2906</u> Application for compensation <i>Fifth and Final Application for Compensation and for Reimbursement of Expenses of Pachulski Stang Ziehl &amp; Jones LLP as Counsel for the Debtor and Debtor in Possession for the Period from October 19, 2019 through August 10, 2021</i> for Jeffrey Nathan Pomerantz, Debtor's Attorney, Period: 10/16/2019 to 8/10/2021, Fee: \$23978627.25, Expenses: \$334,232.95. Filed by Attorney Jeffrey Nathan Pomerantz Objections due by 10/29/2021., <u>2907</u> Application for compensation <i>Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dorr LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses as Regulatory and Compliance Counsel for the Period October 16, 2019 through August 11, 2021</i> for Wilmer Cutler Pickering Hale and Dorr LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$2,645,729.72, Expenses: \$5,207.53. Filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP Objections due by 10/29/2021., <u>2908</u> Application for compensation <i>Third and Final Application for Compensation and for Reimbursement of Expenses of Mercer (US) Inc. as Compensation Consultant for the Debtor for the Period from November 15, 2019 through August 10, 2021</i> for Mercer (US) Inc., Consultant, Period: 11/15/2019 to 8/10/2021, Fee:</p>



	<p>\$202,317.65, Expenses: \$2,449.37. Filed by Consultant Mercer (US) Inc. Objections due by 10/29/2021., <u>2910</u> Application for compensation (<i>Hayward PLLC's Final Application for Compensation and Reimbursement of Expenses for the Period from December 10, 2019 through August 11, 2021</i>) for Hayward PLLC, Debtor's Attorney, Period: 12/10/2019 to 8/11/2021, Fee: \$825,629.50, Expenses: \$46,482.92. Filed by Other Professional Hayward PLLC, <u>2911</u> Application for compensation (<i>Final Fee Application of Deloitte Tax LLP for Compensation for Services Rendered as Tax Services Provider to the Debtor for the Period from October 16, 2019 through August 11, 2021</i>) for Deloitte Tax LLP, Other Professional, Period: 10/16/2019 to 8/11/2021, Fee: \$553,412.60, Expenses: \$0.00. Filed by Other Professional Deloitte Tax LLP). Hearing to be held on 11/9/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2903</u> and for <u>2904</u> and for <u>2907</u> and for <u>2910</u> and for <u>2872</u> and for <u>2911</u> and for <u>2908</u> and for <u>2906</u> and for <u>2902</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/12/2021	<p><u>3113</u> BNC certificate of mailing. (RE: related document(s)<u>3099</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)<u>3078</u> Notice of appeal <i>Order Granting Consolidated Monthly, Third Interim, and Final Application of Wilmer Cutler Pickering Hale and Dore LLP</i>. Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3048</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit A to Notice of Appeal))) No. of Notices: 1. Notice Date 12/12/2021. (Admin.)</p>
12/13/2021	<p><u>3115</u> INCORRECT ENTRY. Incomplete Form. Certificate of mailing regarding appeal (RE: related document(s)<u>3076</u> Notice of appeal of <i>Order Granting Twenty-First and Final Fee Application of FTI Consulting, Inc.</i>. Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3058</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit Exh A to Notice of Appeal)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua) Modified on 12/13/2021 (Whitaker, Sheniqua).</p>
12/13/2021	<p><u>3116</u> Certificate of mailing regarding appeal (RE: related document(s)<u>3076</u> Notice of appeal of <i>Order Granting Twenty-First and Final Fee Application of FTI Consulting, Inc.</i>. Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3058</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit Exh A to Notice of Appeal)) (Attachments: # <u>1</u> Service List) (Whitaker, Sheniqua)</p>
12/13/2021	<p><u>3117</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s)<u>3076</u> Notice of appeal of <i>Order Granting Twenty-First and Final Fee Application of FTI Consulting, Inc.</i>. Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3058</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit Exh A to Notice of Appeal)) (Whitaker, Sheniqua)</p>
12/13/2021	<p><u>3118</u> Notice of docketing notice of appeal. Civil Action Number: 3:21-cv-03104-G. (RE: related document(s)<u>3076</u> Notice of appeal of <i>Order Granting Twenty-First and Final Fee Application of FTI Consulting, Inc.</i>. Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3058</u> Order on application for compensation). Appellant Designation due by 12/17/2021. (Attachments: # 1 Exhibit Exh A to Notice of Appeal)) (Whitaker, Sheniqua)</p>
12/14/2021	<p><u>3119</u> Certificate of service re: Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim Nos. 182, 184, 185, 187, 192, 214, 215, 242, 245, and 253 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>3091</u> Stipulation by Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust and Scott Ellington, Isaac Leventon, Frank Waterhouse, and Jean-Paul Sevilla ***Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim Nos. 182, 184, 185, 187, 192, 214, 215, 242, 245, and 253. filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust (RE: related document(s)<u>1808</u> Chapter 11 plan). (Attachments: # 1 Proposed Order) filed by Interested Party Litigation</p>

	Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust). (Kass, Albert)
12/15/2021	<u>3120</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. ( <i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A)). Hearing to be held on 3/1/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3088</u> , (Annable, Zachery)
12/15/2021	<u>3121</u> Notice of hearing filed by Creditor Committee Official Committee of Unsecured Creditors (RE: related document(s) <u>3001</u> Omnibus Objection to claim(s) of Creditor(s) Jean-Paul Sevilla, Scott Ellington, Isaac Leventon, Frank Waterhouse, CLO Holdco, Ltd... Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A)). Hearing to be held on 2/28/2022 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3001</u> , (Montgomery, Paige)
12/16/2021	<u>3122</u> Certificate of service re: re 1) Agreed First Amended Scheduling Order on Debtor's Third Omnibus Objection to Certain No-Liability Claims; and 2) Order Granting in Part and Denying in Part Highland's Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3102</u> Agreed first amended scheduling order on Debtor's third omnibus objection to certain no-liability claims (RE: related document(s) <u>2059</u> Third Omnibus objection to certain no-liability claims <u>2976</u> Amended Supplemental Omnibus Objection to certain employee claims filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 2/16/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2976</u> , Entered on 12/10/2021, <u>3106</u> Order granting in part, denying in part Highland's supplemental motion to disqualify Wick Phillips Gould & Martin, LLP as counsel to HCRE Partners, LLC (related document <u>2196</u> and <u>2893</u> ) Entered on 12/10/2021.). (Kass, Albert)
12/17/2021	<u>3123</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3077</u> Notice of appeal, <u>3095</u> Notice regarding the record for a bankruptcy appeal, <u>3096</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022. (Jain, Kristin)
12/17/2021	<u>3124</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3078</u> Notice of appeal, <u>3099</u> Notice regarding the record for a bankruptcy appeal, <u>3100</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022. (Jain, Kristin)
12/17/2021	<u>3125</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3079</u> Notice of appeal, <u>3103</u> Notice regarding the record for a bankruptcy appeal, <u>3104</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022. (Jain, Kristin)
12/17/2021	<u>3126</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3080</u> Notice of appeal, <u>3108</u> Notice regarding the record for a bankruptcy appeal, <u>3109</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022. (Jain, Kristin)
12/17/2021	<u>3127</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3076</u> Notice of appeal, <u>3117</u> Notice regarding the record for a bankruptcy

	appeal, <u>3118</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022. (Jain, Kristin)
12/20/2021	<u>3128</u> Motion for 2004 examination of Thomas Surgent. Filed by Creditor The Dugaboy Investment Trust (Draper, Douglas)
12/20/2021	<u>3129</u> Request for Removal from Mailing List filed by Creditor Carpenter Lipps & Leland LLP . (Tello, Chris)
12/20/2021	<u>3130</u> Certificate of service re: Notice of Hearing on Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3120</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. ( <i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A)). Hearing to be held on 3/1/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3088</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
12/21/2021	<u>3131</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School Filed by Debtor Highland Capital Management, L.P and <u>2976</u> Amended Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCMC, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s) <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Attachments: # 1 Appendix A # 2 Appendix B # 3 Exhibit A # 4 Exhibit B # 5 Exhibit C) (Annable, Zachery). Modified on 11/3/2021.). Hearing to be held on 2/16/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2976</u> and <u>2059</u> , (Annable, Zachery). MODIFIED linkage on 12/21/2021 (Okafor, Marcey).

12/21/2021	<p><u>3133</u> Notice of hearing filed by Creditor The Dugaboy Investment Trust (RE: related document(s)<u>3128</u> Motion for 2004 examination of Thomas Surgent. Filed by Creditor The Dugaboy Investment Trust). Hearing to be held on 2/1/2022 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3128</u>, (Attachments: # <u>1</u> Hearing Instructions) (Draper, Douglas)</p>
12/22/2021	<p><u>3134</u> Response unopposed to (related document(s): <u>3066</u> Motion for leave to <i>File Lawsuit</i> filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)</p>
12/22/2021	<p><u>3135</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Exhibit A)). Hearing to be held on 3/1/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3088</u>, (Annable, Zachery)</p>
12/27/2021	<p><u>3136</u> Certificate of service re: Notice of Hearing Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>3131</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School Filed by Debtor Highland Capital Management, L.P and <u>2976</u> AmendedSupplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCM, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s)<u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Attachments: # <u>1</u> Appendix A # <u>2</u> Appendix B # <u>3</u> Exhibit A # <u>4</u> Exhibit B # <u>5</u> Exhibit C) (Annable, Zachery). Modified on 11/3/2021.). Hearing to be held on 2/16/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2976</u> and <u>2059</u>, (Annable, Zachery). MODIFIED linkage on 12/21/2021. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>



12/28/2021	<p><u>3137</u> Clerk's correspondence requesting a notice of hearing from attorney for creditor. (RE: related document(s)<u>3011</u> Motion to stay pending appeal <i>Amended</i> (related documents <u>1943</u> Order confirming chapter 11 plan) Filed by Creditor CLO Holdco, Ltd., Interested Parties CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A–Motion to Withdraw Reference)) Responses due by 1/11/2022. (Ecker, C.)</p>
12/28/2021	<p><u>3138</u> Clerk's correspondence requesting amended designation from attorney for appellant. (RE: related document(s)<u>3124</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3078</u> Notice of appeal, <u>3099</u> Notice regarding the record for a bankruptcy appeal, <u>3100</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022., <u>3125</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3079</u> Notice of appeal, <u>3103</u> Notice regarding the record for a bankruptcy appeal, <u>3104</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022., <u>3126</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3080</u> Notice of appeal, <u>3108</u> Notice regarding the record for a bankruptcy appeal, <u>3109</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022., <u>3127</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3076</u> Notice of appeal, <u>3117</u> Notice regarding the record for a bankruptcy appeal, <u>3118</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022.) Responses due by 1/27/2022. (Blanco, J.)</p>
12/28/2021	<p><u>3139</u> Certificate of service re: 1) Reorganized Debtors (I) Response to Motion for Leave to File Lawsuit and (II) Reservation of Rights; and 2) Amended Notice of Hearing on Reorganized Debtors Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s)<u>3134</u> Response unopposed to (related document(s): <u>3066</u> Motion for leave to <i>File Lawsuit</i> filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P., <u>3135</u> Amended Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A)). Hearing to be held on 3/1/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3088</u>, filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)</p>
12/29/2021	<p><u>3140</u> Notice <i>Regarding Response to Clerk's Correspondence of December 28, 2021</i> filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3138</u> Clerk's correspondence requesting amended designation from attorney for appellant. (RE: related document(s)<u>3124</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3078</u> Notice of appeal, <u>3099</u> Notice regarding the record for a bankruptcy appeal, <u>3100</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022., <u>3125</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3079</u> Notice of appeal, <u>3103</u> Notice regarding the record for a bankruptcy appeal, <u>3104</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022., <u>3126</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3080</u> Notice of appeal, <u>3108</u> Notice regarding the record for a bankruptcy appeal, <u>3109</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022., <u>3127</u> Appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s)<u>3076</u> Notice of appeal, <u>3117</u> Notice regarding the record for a bankruptcy appeal, <u>3118</u> Notice of docketing notice of appeal/record). Appellee designation due by 01/3/2022.) Responses due by 1/27/2022. (Blanco, J.). (Jain, Kristin)</p>

12/30/2021	<u>3141</u> Order granting <u>2889</u> motion to strike document. (re: document <u>2852</u> Application for compensation) Entered on 12/30/2021. (Okafor, Marcey)
12/30/2021	<u>3142</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A)). Hearing to be held on 2/28/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2940</u> , (Annable, Zachery)
12/31/2021	<u>3143</u> Certificate of service re: Notice of Hearing on Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3142</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) Filed by Debtor Highland Capital Management, L.P. (Attachments: # 1 Exhibit A)). Hearing to be held on 2/28/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2940</u> , filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/01/2022	<u>3144</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3141</u> Order granting <u>2889</u> motion to strike document. (re: document <u>2852</u> Application for compensation) Entered on 12/30/2021.) No. of Notices: 1. Notice Date 01/01/2022. (Admin.)
01/03/2022	<u>3145</u> Motion to extend time to object to claims Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
01/03/2022	<u>3146</u> Assignment/Transfer of Claim. Fee Amount \$26. Transfer Agreement 3001 (e) 2 Transferors: Hunter Covitz (Claim No. 186) To NexPoint Advisors, L.P.. Filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian)
01/03/2022	<u>3147</u> Response opposed to (related document(s): <u>3002</u> Objection to claim filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust) filed by Interested Party NexPoint Advisors, L.P.. (Vasek, Julian) Filed by Interested Party NexPoint Advisors, L.P. (related document(s) <u>3002</u> Objection to claim(s) of Creditor(s) Hunter Covitz.. Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust). (Vasek, Julian)
01/03/2022	Receipt of filing fee for Assignment/Transfer of claim (Claims Agent)( <u>19-34054-sgj11</u> ) [claims,trclmagt] ( 26.00). Receipt number A29228864, amount \$ 26.00 (re: Doc# <u>3146</u> ). (U.S. Treasury)
01/03/2022	<u>3148</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3145</u> Motion to extend time to object to claims Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/27/2022 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3145</u> , (Annable, Zachery)
01/03/2022	<u>3149</u> Appellee designation of contents for inclusion in record of appeal <i>Supplemental Designation of Record on Appeal</i> filed by Creditor Sidley Austin LLP (RE: related document(s) <u>3076</u> Notice of appeal, <u>3077</u> Notice of appeal, <u>3078</u> Notice of appeal, <u>3079</u> Notice of appeal, <u>3080</u> Notice of appeal, <u>3095</u> Notice regarding the record for a bankruptcy appeal, <u>3096</u> Notice of docketing notice of appeal/record, <u>3099</u> Notice regarding the record for a bankruptcy appeal, <u>3100</u> Notice of docketing notice of appeal/record, <u>3103</u> Notice regarding the record for a bankruptcy appeal, <u>3104</u> Notice of docketing notice of

	appeal/record, <u>3108</u> Notice regarding the record for a bankruptcy appeal, <u>3109</u> Notice of docketing notice of appeal/record, <u>3117</u> Notice regarding the record for a bankruptcy appeal, <u>3118</u> Notice of docketing notice of appeal/record). (Hoffman, Juliana)
01/03/2022	<u>3150</u> Appellee designation of contents for inclusion in record of appeal <i>Supplemental Designation of Record on Appeal</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <u>3076</u> Notice of appeal). (Hoffman, Juliana)
01/03/2022	<u>3151</u> Appellee designation of contents for inclusion in record of appeal <i>Supplemental Designation of Record</i> filed by Other Professional Teneo Capital, LLC (RE: related document(s) <u>3078</u> Notice of appeal). (Hoffman, Juliana)
01/03/2022	<u>3152</u> Withdrawal of claim(s): <i>Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim Nos. 135, 137 and 139</i> Filed by Interested Party Mark Okada. (Glueckstein, Brian)
01/03/2022	<u>3153</u> Appellee designation of contents for inclusion in record of appeal filed by Attorney Pachulski Stang Ziehl & Jones LLP (RE: related document(s) <u>3077</u> Notice of appeal). (Annable, Zachery)
01/03/2022	<u>3154</u> Appellee designation of contents for inclusion in record of appeal filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (RE: related document(s) <u>3078</u> Notice of appeal). (Annable, Zachery)
01/04/2022	<u>3155</u> Notice to take deposition of Jim Seery filed by Interested Party CPCM, LLC. (Smith, Frances)
01/04/2022	<u>3156</u> Notice to take deposition of CPCM, LLC filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/05/2022	<u>3157</u> Notice to take deposition of Frank Waterhouse filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/05/2022	<u>3158</u> Notice to take deposition of Frank Waterhouse filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/05/2022	<u>3159</u> Motion to appear pro hac vice for Jeffrey M. Dine. Fee Amount \$100 Filed by Debtor Highland Capital Management, L.P. (Attachments: # <u>1</u> Certificate of Good Standing) (Hayward, Melissa)
01/05/2022	Receipt of filing fee for Motion to Appear pro hac vice( <u>19-34054-sgj11</u> ) [motion,mprohac] ( 100.00). Receipt number A29235722, amount \$ 100.00 (re: Doc# <u>3159</u> ). (U.S. Treasury)
01/06/2022	<u>3160</u> Stipulation by Highland Capital Management, L.P. and NexPoint Advisors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2044</u> Assignment/Transfer of claim (Claims Agent), <u>2045</u> Assignment/Transfer of claim (Claims Agent), <u>2046</u> Assignment/Transfer of claim (Claims Agent), <u>2047</u> Assignment/Transfer of claim (Claims Agent), <u>2059</u> Objection to claim, <u>2266</u> Assignment/Transfer of claim (Claims Agent), <u>2974</u> Objection to claim, <u>2976</u> Objection to claim). (Annable, Zachery)
01/06/2022	<u>3161</u> Certificate of service re: Documents Served on January 3, 2022 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3145</u> Motion to extend time to object to claims Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>3148</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3145</u> Motion to extend time to object to claims Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 1/27/2022 at 02:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3145</u> , filed by

	Debtor Highland Capital Management, L.P., <a href="#">3149</a> Appellee designation of contents for inclusion in record of appeal <i>Supplemental Designation of Record on Appeal</i> filed by Creditor Sidley Austin LLP (RE: related document(s) <a href="#">3076</a> Notice of appeal, <a href="#">3077</a> Notice of appeal, <a href="#">3078</a> Notice of appeal, <a href="#">3079</a> Notice of appeal, <a href="#">3080</a> Notice of appeal, <a href="#">3095</a> Notice regarding the record for a bankruptcy appeal, <a href="#">3096</a> Notice of docketing notice of appeal/record, <a href="#">3099</a> Notice regarding the record for a bankruptcy appeal, <a href="#">3100</a> Notice of docketing notice of appeal/record, <a href="#">3103</a> Notice regarding the record for a bankruptcy appeal, <a href="#">3104</a> Notice of docketing notice of appeal/record, <a href="#">3108</a> Notice regarding the record for a bankruptcy appeal, <a href="#">3109</a> Notice of docketing notice of appeal/record, <a href="#">3117</a> Notice regarding the record for a bankruptcy appeal, <a href="#">3118</a> Notice of docketing notice of appeal/record). filed by Creditor Sidley Austin LLP, <a href="#">3150</a> Appellee designation of contents for inclusion in record of appeal <i>Supplemental Designation of Record on Appeal</i> filed by Financial Advisor FTI Consulting, Inc. (RE: related document(s) <a href="#">3076</a> Notice of appeal). filed by Financial Advisor FTI Consulting, Inc., <a href="#">3151</a> Appellee designation of contents for inclusion in record of appeal <i>Supplemental Designation of Record</i> filed by Other Professional Teneo Capital, LLC (RE: related document(s) <a href="#">3078</a> Notice of appeal). filed by Other Professional Teneo Capital, LLC, <a href="#">3153</a> Appellee designation of contents for inclusion in record of appeal filed by Attorney Pachulski Stang Ziehl & Jones LLP (RE: related document(s) <a href="#">3077</a> Notice of appeal). filed by Attorney Pachulski Stang Ziehl & Jones LLP, <a href="#">3154</a> Appellee designation of contents for inclusion in record of appeal filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP (RE: related document(s) <a href="#">3078</a> Notice of appeal). filed by Other Professional Wilmer Cutler Pickering Hale and Dorr LLP). (Kass, Albert)
01/06/2022	<a href="#">3162</a> Certificate of service re: Highland's Notice of Rule 30(b)(6) Deposition to CPCM, LLC Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">3156</a> Notice to take deposition of CPCM, LLC filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/07/2022	<a href="#">3163</a> Order authorizing withdrawal of proofs of claim nos. 135, 137 and 139 (RE: related document(s) <a href="#">3152</a> Withdrawal of claim filed by Interested Party Mark Okada). Entered on 1/7/2022 (Bradden, T.)
01/07/2022	<a href="#">3164</a> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim nos. 182, 184, 185, 187, 192, 214, 215, 242, 245 and 253 (RE: related document(s) <a href="#">3091</a> Stipulation filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust). Entered on 1/7/2022 (Bradden, T.)
01/07/2022	<a href="#">3165</a> Order granting motion to appear pro hac vice adding Jeffrey M. Dine for Highland Capital Management, L.P. (related document # <a href="#">3159</a> ) Entered on 1/7/2022. (Bradden, T.)
01/07/2022	<a href="#">3166</a> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Claims Transferred to Nexpoint Advisors, L.P. (RE: related document(s) <a href="#">3160</a> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 1/7/2022 (Dugan, Sue)
01/07/2022	<a href="#">3167</a> Reply to (related document(s): <a href="#">3147</a> Response to objection to claim filed by Interested Party NexPoint Advisors, L.P.) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. (Montgomery, Paige)
01/07/2022	<a href="#">3168</a> Certificate of service re: Highland's Amended Notice of Deposition to Frank Waterhouse Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <a href="#">3158</a> Notice to take deposition of Frank Waterhouse filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/08/2022	<a href="#">3169</a> Subpoena on Frank Waterhouse filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/09/2022	



	<u>3170</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3163</u> Order authorizing withdrawal of proofs of claim nos. 135, 137 and 139 (RE: related document(s) <u>3152</u> Withdrawal of claim filed by Interested Party Mark Okada). Entered on 1/7/2022 (Bradden, T.)) No. of Notices: 2. Notice Date 01/09/2022. (Admin.)
01/09/2022	<u>3171</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3164</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim nos. 182, 184, 185, 187, 192, 214, 215, 242, 245 and 253 (RE: related document(s) <u>3091</u> Stipulation filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust). Entered on 1/7/2022 (Bradden, T.)) No. of Notices: 2. Notice Date 01/09/2022. (Admin.)
01/09/2022	<u>3172</u> BNC certificate of mailing – PDF document. (RE: related document(s) <u>3165</u> Order granting motion to appear pro hac vice adding Jeffrey M. Dine for Highland Capital Management, L.P. (related document <u>3159</u> ) Entered on 1/7/2022. (Bradden, T.)) No. of Notices: 2. Notice Date 01/09/2022. (Admin.)
01/10/2022	<u>3173</u> Motion to extend time to Engage Substitute Counsel (RE: related document(s) <u>3106</u> Order on motion to compel) Filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC (Attachments: # <u>1</u> Proposed Order) (Drawhorn, Lauren)
01/11/2022	<u>3174</u> Order granting <u>3173</u> Agreed Motion to Continue Deadline Engage Substitute Counsel Entered on 1/11/2022. (Okafor, Marcey)
01/11/2022	<u>3175</u> Certificate of service re: Stipulation and Agreed Order Authorizing Withdrawal of Claims Transferred to NexPoint Advisors, L.P. Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3160</u> Stipulation by Highland Capital Management, L.P. and NexPoint Advisors, L.P.. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2044</u> Assignment/Transfer of claim (Claims Agent), <u>2045</u> Assignment/Transfer of claim (Claims Agent), <u>2046</u> Assignment/Transfer of claim (Claims Agent), <u>2047</u> Assignment/Transfer of claim (Claims Agent), <u>2059</u> Objection to claim, <u>2266</u> Assignment/Transfer of claim (Claims Agent), <u>2974</u> Objection to claim, <u>2976</u> Objection to claim). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/11/2022	<u>3176</u> Certificate of service re: Reorganized Debtor's Notice of Service of a Subpoena to Frank Waterhouse in Connection with Amended Motion to Disallow Claim Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3169</u> Subpoena on Frank Waterhouse filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/11/2022	<u>3177</u> Response opposed to (related document(s): <u>3001</u> Objection to claim filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust) <i>and Motion to Ratify Second Amendment to Proof of Claim</i> filed by Creditor CLO Holdco, Ltd.. (Phillips, Louis)
01/11/2022	<u>3178</u> Motion to ratify second amended proof of claim No. 198 by CLO Holdco, Ltd. . (RE: related document(s) <u>3001</u> Omnibus Objection to claim(s) of Creditor(s) Jean–Paul Sevilla, Scott Ellington, Isaac Leventon, Frank Waterhouse, CLO Holdco, Ltd... Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub–Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A)) (Ecker, C.) (Entered: 01/12/2022)
01/12/2022	<u>3179</u> Certificate of service re: 1) Order Authorizing Withdrawal of Proofs of Claim Nos. 135, 137 and 139; 2) Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Proofs of Claim Nos. 182, 184, 185, 187, 192, 214, 215, 242, 245, and 253; and 3) Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Claims Transferred to NexPoint Advisors, L.P. Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3163</u> Order authorizing withdrawal of proofs of claim nos. 135, 137 and 139 (RE: related document(s) <u>3152</u> Withdrawal of claim filed by

	Interested Party Mark Okada). Entered on 1/7/2022 (Bradden, T.), <u>3164</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claim nos. 182, 184, 185, 187, 192, 214, 215, 242, 245 and 253 (RE: related document(s) <u>3091</u> Stipulation filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust). Entered on 1/7/2022 (Bradden, T.), <u>3166</u> Order Approving Stipulation and Agreed Order Authorizing Withdrawal of Claims Transferred to Nexpoint Advisors, L.P. (RE: related document(s) <u>3160</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 1/7/2022). (Kass, Albert)
01/13/2022	<u>3180</u> Order sustaining Litigation Trustee's objection to claim of Hunter Covitz (RE: related document(s) <u>3002</u> Objection to claim filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust). Entered on 1/13/2022 (Okafor, Marcey)
01/14/2022	<u>3181</u> Notice of Appearance and Request for Notice by Charles W. Gameros Jr. filed by Creditor NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC. (Gameros, Charles)
01/14/2022	<u>3182</u> Witness and Exhibit List (unsigned) filed by Creditor Paul N. Adkins (RE: related document(s) <u>3086</u> Objection to claim). (Whitaker, Sheniqua)
01/14/2022	<u>3183</u> Certificate of service re: (Supplemental) re Agreed First Amended Scheduling Order on Debtor's Third Omnibus Objection to Certain No-Liability Claims Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3102</u> Agreed first amended scheduling order on Debtor's third omnibus objection to certain no-liability claims (RE: related document(s) <u>2059</u> Third Omnibus objection to certain no-liability claims <u>2976</u> Amended Supplemental Omnibus Objection to certain employee claims filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 2/16/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>2976</u> , Entered on 12/10/2021). (Kass, Albert)
01/17/2022	<u>3184</u> Response opposed to (related document(s): <u>3128</u> Motion for 2004 examination of Thomas Surgent. filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
01/18/2022	<u>3185</u> Adversary case 22-03003. Complaint by Scott Byron Ellington against Patrick Daugherty. Fee Amount \$350 (Attachments: # <u>1</u> Appendix to Notice of Removal # <u>2</u> Adversary Proceeding Cover Sheet). Nature(s) of suit: 01 (Determination of removed claim or cause). (Brookner, Jason)
01/18/2022	<u>3186</u> Certificate of service re: Order Sustaining the Litigation Trustee's Objection to Proof of Claim Filed by Hunter Covitz (Claim No. 186) Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3180</u> Order sustaining Litigation Trustee's objection to claim of Hunter Covitz (RE: related document(s) <u>3002</u> Objection to claim filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust). Entered on 1/13/2022). (Kass, Albert)
01/18/2022	<u>3187</u> Amended appellant designation of contents for inclusion in record on appeal and statement of issues on appeal. <i>Consolidated Designation of Items to be Included in the Record on Appeal and Statement of Issues to be Presented</i> filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3123</u> Appellant designation, <u>3124</u> Appellant designation, <u>3125</u> Appellant designation, <u>3126</u> Appellant designation, <u>3127</u> Appellant designation). (Jain, Kristin)
01/19/2022	<u>3188</u> Clerk's correspondence requesting an order from attorney for creditor. (RE: related document(s) <u>3066</u> Motion for leave to <i>File Lawsuit</i> Filed by Creditor The Dugaboy Investment Trust Objections due by 12/22/2021. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C)) Responses due by 1/26/2022. (Ecker, C.)
01/19/2022	<u>3189</u> Certificate of service re: Reorganized Debtors Objection to Motion to Produce Documents and to Sit for a Rule 2004 Examination Filed by Claims Agent Kurtzman

	Carson Consultants LLC (related document(s) <u>3184</u> Response opposed to (related document(s): <u>3128</u> Motion for 2004 examination of Thomas Surgent. filed by Creditor The Dugaboy Investment Trust) filed by Debtor Highland Capital Management, L.P.. filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/21/2022	<u>3190</u> Stipulation by James Dondero and Marc S. Kirschner, Litigation Trustee. filed by Interested Party James Dondero (RE: related document(s) <u>1808</u> Chapter 11 plan). (Attachments: # <u>1</u> Proposed Order) (Assink, Bryan)
01/24/2022	<u>3191</u> Motion to quash (related documents <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) filed by Debtor Highland Capital Management, L.P., <u>3169</u> Subpoena filed by Debtor Highland Capital Management, L.P.) Filed by Interested Party CPCM, LLC (Attachments: # <u>1</u> Proposed Order) (Smith, Frances)
01/24/2022	<u>3192</u> Amended Motion to quash (related documents <u>3191</u> Motion to quash (related documents <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) filed b filed by Interested Party CPCM, LLC) Filed by Interested Party CPCM, LLC (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Smith, Frances)
01/25/2022	<u>3193</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3086</u> Objection to claim). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11) (Annable, Zachery)
01/25/2022	<u>3194</u> Certificate of No Objection filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3145</u> Motion to extend time to object to claims). (Annable, Zachery)
01/25/2022	<u>3195</u> Amended appellee designation of contents for inclusion in record of appeal ( <i>Appellees' Consolidated Supplemental Designation of Record on Appeal</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3149</u> Appellee designation, <u>3150</u> Appellee designation, <u>3151</u> Appellee designation, <u>3153</u> Appellee designation, <u>3154</u> Appellee designation). (Annable, Zachery)
01/26/2022	<u>3196</u> Notice of appeal . Fee Amount \$298 filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3180</u> Order regarding objection). Appellant Designation due by 02/9/2022. (Attachments: # <u>1</u> Exhibit A)(Vasek, Julian)
01/26/2022	Receipt of filing fee for Notice of appeal( <u>19-34054-sgj11</u> ) [appeal,ntcapl] ( 298.00). Receipt number A29283544, amount \$ 298.00 (re: Doc# <u>3196</u> ). (U.S. Treasury)
01/26/2022	<u>3197</u> Certificate of service re: 1) Highland Capital Management, L.P.'s Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on January 27, 2022; and 2) Appellees' Consolidated Supplemental Designation of Record on Appeal Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3193</u> Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3086</u> Objection to claim). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11) filed by Debtor Highland Capital Management, L.P., <u>3195</u> Amended appellee designation of contents for inclusion in record of appeal ( <i>Appellees' Consolidated Supplemental Designation of Record on Appeal</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3149</u> Appellee designation, <u>3150</u> Appellee designation, <u>3151</u> Appellee designation, <u>3153</u> Appellee designation, <u>3154</u> Appellee designation). filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
01/27/2022	Adversary case 3:21-ap-3051 closed (Ecker, C.)

01/27/2022	<u>3198</u> Order granting <u>3145</u> Joint Motion extending the claims objection deadline pursuant to confirmed Chapter 11 Plan by which Debtor may object to claims Entered on 1/27/2022. (Okafor, Marcey)
01/27/2022	<u>3199</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>3085</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
01/27/2022	<u>3200</u> Amended Chapter 11 Post-Confirmation Report for the Quarter Ending: 09/30/2021 filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2949</u> Chapter 11 Post-Confirmation Report, <u>3004</u> Chapter 11 Post-Confirmation Report). (Attachments: # <u>1</u> Global Notes to Amended Post-Confirmation Report) (Annable, Zachery)
01/27/2022	<u>3201</u> Chapter 11 Post-Confirmation Report for the Quarter Ending: 12/31/2021 filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Global Notes to Post-Confirmation Report) (Annable, Zachery)
01/27/2022	<u>3202</u> Chapter 11 Post-Confirmation Report for the Quarter Ending: 12/31/2021 filed by Other Professional Highland Claimant Trust. (Attachments: # <u>1</u> Global Notes to Post-Confirmation Report) (Annable, Zachery)
01/27/2022	<u>3203</u> Witness and Exhibit List for <i>Hearing on Motion to Produce Documents &amp; to Sit for a Rule 2004 Examination</i> filed by Creditor The Dugaboy Investment Trust (RE: related document(s) <u>3128</u> Motion for 2004 examination of Thomas Surgent.). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 3A # <u>3</u> Exhibit 3B # <u>4</u> Exhibit 3C # <u>5</u> Exhibit 4 # <u>6</u> Exhibit 5 # <u>7</u> Exhibit 6 # <u>8</u> Exhibit 7 # <u>9</u> Exhibit 8 # <u>10</u> Exhibit 9 # <u>11</u> Exhibit 10 # <u>12</u> Exhibit 11 # <u>13</u> Exhibit 12 # <u>14</u> Exhibit 13 # <u>15</u> Exhibit 14 # <u>16</u> Exhibit 15 # <u>17</u> Exhibit 16 # <u>18</u> Exhibit 17 # <u>19</u> Exhibit 18 # <u>20</u> Exhibit 19 # <u>21</u> Exhibit 20 # <u>22</u> Exhibit 2 A-E) (Draper, Douglas)
01/27/2022	<u>3204</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3199</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>3085</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 3/1/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3199</u> , (Annable, Zachery)
01/27/2022	<u>3205</u> Response opposed to (related document(s): <u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2976</u> Objection to claim filed by Debtor Highland Capital Management, L.P.) <i>CPCM's Response to Debtor's Third Omnibus Objection</i> filed by Interested Party CPCM, LLC. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Soderlund, Eric) Filed by Interested Party CPCM, LLC (related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broadus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 4/20/2021. filed by Debtor Highland Capital Management, L.P., <u>2976</u> Amended Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broadus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James



	<p>Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCM, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s)<u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broadus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahana Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School.. Filed by Debtor Highland Capital Management, L.P.. Responses due by 12/2/2021. (Attachments: # 1 Exhibit A # 2 Exhibit B) filed by Debtor Highland Capital Management, L.P.). (Attachments: # 1 Appendix A # 2 Appendix B # 3 Exhibit A # 4 Exhibit B # 5 Exhibit C) (Annable, Zachery). Modified on 11/3/2021. filed by Debtor Highland Capital Management, L.P.). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E) (Soderlund, Eric)</p>
01/27/2022	<p><u>3206</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s)<u>3193</u> List (witness/exhibit/generic)). (Attachments: # <u>1</u> Exhibit 12 # <u>2</u> Exhibit 13 # <u>3</u> Exhibit 14 # <u>4</u> Exhibit 15 # <u>5</u> Exhibit 16) (Annable, Zachery)</p>
01/27/2022	<p><u>3208</u> Hearing held on 1/27/2022. (RE: related document(s)<u>3086</u> Objection to claim(s) of Creditor(s) Paul N. Adkins, filed by Debtor Highland Capital Management, L.P., (Appearances: G. Demo, J. Morris, and Z. Annabel for Reorganized Debtor; P. Adkins, pro se. Evidentiary hearing. Objection sustained. Counsel to upload order.) (Edmond, Michael) (Entered: 01/28/2022)</p>
01/27/2022	<p><u>3224</u> Court admitted exhibits date of hearing January 27, 2022 (RE: related document(s)<u>3086</u> Objection to claim(s) of Creditor(s) Paul N. Adkins, filed by Debtor Highland Capital Management, L.P., (COURT ADMITTED DEBTOR'S EXHIBITS #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15 &amp; #16 BY JOHN MORRIS &amp; ADKINS EXHIBITS #A, #B, #C, #D, #E, #F, #G, #H, #I &amp; #J BY PAUL N. ADKINS) (Edmond, Michael) (Entered: 02/08/2022)</p>
01/28/2022	<p><u>3207</u> Request for transcript regarding a hearing held on 1/27/2022. The requested turn-around time is hourly. (Edmond, Michael)</p>
01/28/2022	<p><u>3209</u> PDF with attached Audio File. Court Date &amp; Time [01/27/2022 02:39:06 PM]. File Size [ 19203 KB ]. Run Time [ 01:22:03 ]. (admin).</p>
01/30/2022	<p><u>3210</u> Transcript regarding Hearing Held 01/27/2022 (60 pages) RE: Objections to Claims 65 and 66 of Paul N. Adkins <u>3086</u>. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 05/2/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) <u>3208</u> Hearing held on 1/27/2022. (RE: related document(s)<u>3086</u> Objection to claim(s) of Creditor(s) Paul N. Adkins, filed by Debtor Highland Capital Management, L.P., (Appearances: G. Demo, J. Morris, and Z. Annabel for Reorganized Debtor; P. Adkins, pro se. Evidentiary hearing. Objection sustained. Counsel to upload order.)). Transcript to be made available to the public on 05/2/2022. (Rehling, Kathy)</p>
01/31/2022	<p><u>3211</u> Subpoena on Alexander McGeoch filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)</p>

01/31/2022	<u>3212</u> Subpoena on Mark Patrick filed by Creditor The Dugaboy Investment Trust. (Draper, Douglas)
01/31/2022	<u>3213</u> Notice of hearing filed by Interested Party CPCM, LLC (RE: related document(s) <u>3192</u> Amended Motion to quash (related documents <u>3191</u> Motion to quash (related documents <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy Code Section 502</i> ) (related document(s): <u>2857</u> ) filed b filed by Interested Party CPCM, LLC) Filed by Interested Party CPCM, LLC (Attachments: # 1 Exhibit A # 2 Proposed Order)). Hearing to be held on 2/28/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3192</u> , (Smith, Frances)
01/31/2022	<u>3214</u> Certificate of service re: Notice of Hearing filed by Interested Party CPCM, LLC (RE: related document(s) <u>3213</u> Notice of hearing). (Smith, Frances)
02/01/2022	<u>3215</u> Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust, Mark S. Kirschner, as Litigation Trustee of the Highland Litigation Sub-Trust, and Thomas Surgent. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3128</u> Motion for 2004 examination of Thomas Surgent.). (Annable, Zachery)
02/01/2022	<u>3216</u> Order regarding objection to claim number(s) 65 and 66 filed by Paul N. Adkins (RE: related document(s) <u>3086</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 2/1/2022 (Okafor, Marcey)
02/01/2022	<u>3217</u> Hearing held on 2/1/2022. (RE: related document(s) <u>3128</u> Motion for 2004 examination of Thomas Surgent, filed by Creditor The Dugaboy Investment Trust) (Appearances: D. Draper for Dugaboy; J. Kroop for Highland. Nonevidentiary hearing. Announcement of agreed order to be uploaded.) (Edmond, Michael)
02/01/2022	<u>3218</u> Order approving stipulation and agreed order authorizing withdrawal of proofs of claims nos. 141, 142, and 145 (RE: related document(s) <u>3190</u> Stipulation filed by Interested Party James Dondero). Entered on 2/1/2022 (Okafor, Marcey)
02/01/2022	<u>3219</u> Order approving stipulation and agreed order authorizing service of a subpoena duces tecum and ad testificandum in the pending adversary proceeding (RE: related document(s) <u>3215</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/1/2022 (Okafor, Marcey)
02/01/2022	<u>3220</u> Response opposed to (related document(s): <u>3178</u> Motion by CLO Holdco, Ltd.. filed by Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd.) filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. (Attachments: # <u>1</u> Exhibit 1 – Newman Declaration) (Montgomery, Paige)
02/01/2022	<u>3221</u> Certificate of service re: Various Documents Served on January 27, 2022 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3198</u> Order granting <u>3145</u> Joint Motion extending the claims objection deadline pursuant to confirmed Chapter 11 Plan by which Debtor may object to claims Entered on 1/27/2022., <u>3199</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>3085</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P. filed by Debtor Highland Capital Management, L.P., <u>3204</u> Notice of hearing filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3199</u> Motion to extend time to Remove Actions Pursuant to 28 U.S.C. 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (RE: related document(s) <u>3085</u> Order on motion to extend/shorten time) Filed by Debtor Highland Capital Management, L.P.). Hearing to be held on 3/1/2022 at 01:30 PM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3199</u> , filed by Debtor Highland Capital Management, L.P., <u>3206</u> Amended Witness and Exhibit List filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3193</u> List (witness/exhibit/generic)). (Attachments: # 1 Exhibit 12 # 2 Exhibit 13 # 3 Exhibit 14 # 4 Exhibit 15 # 5 Exhibit 16)

	filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/04/2022	<u>3222</u> Certificate of service re: Various Documents Served on February 1, 2022 Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3215</u> Stipulation by Highland Capital Management, L.P. and The Dugaboy Investment Trust, Mark S. Kirschner, as Litigation Trustee of the Highland Litigation Sub-Trust, and Thomas Surgent. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3128</u> Motion for 2004 examination of Thomas Surgent.). filed by Debtor Highland Capital Management, L.P., <u>3216</u> Order regarding objection to claim number(s) 65 and 66 filed by Paul N. Adkins (RE: related document(s) <u>3086</u> Objection to claim filed by Debtor Highland Capital Management, L.P.). Entered on 2/1/2022, <u>3219</u> Order approving stipulation and agreed order authorizing service of a subpoena duces tecum and ad testificandum in the pending adversary proceeding (RE: related document(s) <u>3215</u> Stipulation filed by Debtor Highland Capital Management, L.P.). Entered on 2/1/2022). (Kass, Albert)
02/08/2022	<u>3223</u> Reply to (related document(s): <u>3177</u> Response to objection to claim filed by Creditor CLO Holdco, Ltd., Interested Party CLO Holdco, Ltd., <u>3220</u> Response filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust) filed by Creditor CLO Holdco, Ltd.. (Phillips, Louis)
02/08/2022	<u>3225</u> PDF with attached Audio File. Court Date & Time [02/01/2022 08:45:14 AM]. File Size [ 3669 KB ]. Run Time [ 00:15:48 ]. (admin).
02/08/2022	<u>3226</u> Statement of issues on appeal, filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3196</u> Notice of appeal). (Vasek, Julian)
02/08/2022	<u>3227</u> Appellant designation of contents for inclusion in record on appeal filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3196</u> Notice of appeal). Appellee designation due by 02/22/2022. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D)(Vasek, Julian)
02/09/2022	<u>3228</u> Amended appellant designation of contents for inclusion in record on appeal filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3227</u> Appellant designation). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Exhibit B # <u>3</u> Exhibit C # <u>4</u> Exhibit D # <u>5</u> Exhibit E)(Vasek, Julian)
02/10/2022	<u>3230</u> Reply to (related document(s): <u>3205</u> Response to objection to claim filed by Interested Party CPCM, LLC) ( <i>Highland Capital Management, L.P.'s Reply in Further Support of Debtor's Third Omnibus Objection to Certain No-Liability Claims, as Supplemented</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # <u>1</u> Appendix A) (Annable, Zachery)
02/10/2022	<u>3231</u> Notice of docketing notice of appeal. Civil Action Number: 3:22-CV-00335-L. (RE: related document(s) <u>3196</u> Notice of appeal filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3180</u> Order regarding objection). (Blanco, J.)
02/10/2022	<u>3232</u> Declaration re: ( <i>Declaration of Gregory V. Demo in Support of Highland Capital Management, L.P.'s Reply in Further Support of Debtor's Third Omnibus Objection to Certain No-Liability Claims, as Supplemented</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3230</u> Reply). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Exhibit 4 # <u>5</u> Exhibit 5 # <u>6</u> Exhibit 6 # <u>7</u> Exhibit 7 # <u>8</u> Exhibit 8 # <u>9</u> Exhibit 9 # <u>10</u> Exhibit 10 # <u>11</u> Exhibit 11 # <u>12</u> Exhibit 12 # <u>13</u> Exhibit 13 # <u>14</u> Exhibit 14 # <u>15</u> Exhibit 15 # <u>16</u> Exhibit 16) (Annable, Zachery)
02/11/2022	<u>3233</u> Notice regarding the record for a bankruptcy appeal to the U.S. District Court. (RE: related document(s) <u>3196</u> Notice of appeal filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3180</u> Order regarding objection). (Blanco, J.)

02/11/2022	<u>3234</u> Certificate of mailing regarding appeal (RE: related document(s) <u>3196</u> Notice of appeal filed by Interested Party NexPoint Advisors, L.P. (RE: related document(s) <u>3180</u> Order regarding objection). (Blanco, J.)
02/11/2022	<u>3236</u> Certificate of service re: 1) Highland Capital Management, L.P.'s Reply in Further Support of Debtor's Third Omnibus Objection to Certain No-Liability Claims, as Supplemented; and 2) Declaration of Gregory V. Demo in Support of Highland Capital Management, L.P.'s Reply in Further Support of Debtor's Third Omnibus Objection to Certain No-Liability Claims, as Supplemented Filed by Claims Agent Kurtzman Carson Consultants LLC (related document(s) <u>3230</u> Reply to (related document(s): <u>3205</u> Response to objection to claim filed by Interested Party CPCM, LLC) ( <i>Highland Capital Management, L.P.'s Reply in Further Support of Debtor's Third Omnibus Objection to Certain No-Liability Claims, as Supplemented</i> ) filed by Debtor Highland Capital Management, L.P.. (Attachments: # 1 Appendix A) filed by Debtor Highland Capital Management, L.P., <u>3232</u> Declaration re: ( <i>Declaration of Gregory V. Demo in Support of Highland Capital Management, L.P.'s Reply in Further Support of Debtor's Third Omnibus Objection to Certain No-Liability Claims, as Supplemented</i> ) filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>3230</u> Reply). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Exhibit 7 # 8 Exhibit 8 # 9 Exhibit 9 # 10 Exhibit 10 # 11 Exhibit 11 # 12 Exhibit 12 # 13 Exhibit 13 # 14 Exhibit 14 # 15 Exhibit 15 # 16 Exhibit 16) filed by Debtor Highland Capital Management, L.P.). (Kass, Albert)
02/15/2022	<u>3237</u> Notice of hearing filed by Creditor CLO Holdco, Ltd. (RE: related document(s) <u>3177</u> Response opposed to (related document(s): <u>3001</u> Objection to claim filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust) <i>and Motion to Ratify Second Amendment to Proof of Claim</i> filed by Creditor CLO Holdco, Ltd., <u>3178</u> Motion to ratify second amended proof of claim No. 198 by CLO Holdco, Ltd.. (RE: related document(s) <u>3001</u> Omnibus Objection to claim(s) of Creditor(s) Jean-Paul Sevilla, Scott Ellington, Isaac Leventon, Frank Waterhouse, CLO Holdco, Ltd... Filed by Interested Party Litigation Trustee of the Highland Capital Management, L.P. Litigation Sub-Trust. Responses due by 12/9/2021. (Attachments: # 1 Exhibit A)) (Ecker, C.)). Hearing to be held on 3/10/2022 at 10:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>3178</u> and for <u>3177</u> , (Phillips, Louis)
02/15/2022	<u>3238</u> Stipulation by Highland Capital Management, L.P. and CPCM, LLC, Isaac Leventon, Scott Ellington, and Highgate Consulting, Inc. d/b/a Skyview Group. filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>2059</u> Objection to claim, <u>2976</u> Objection to claim). (Annable, Zachery)
02/16/2022	<u>3239</u> Response opposed to (related document(s): <u>3192</u> Amended Motion to quash (related documents <u>3191</u> Motion to quash (related documents <u>2940</u> Amended Motion to disallow claims ( <i>Amended Motion of the Reorganized Debtor to Disallow Claim of Frank Waterhouse Pursuant to Bankruptcy</i> filed by Interested Party CPCM, LLC) filed by Debtor Highland Capital Management, L.P.. (Annable, Zachery)
02/16/2022	<u>3240</u> Hearing held on 2/16/2022. (RE: related document(s) <u>2059</u> Omnibus Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahan Abayarantha; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School, filed by Debtor Highland Capital Management, L.P.) (Appearances: G. Demo and R. Feinstein for Reorganized Debtor; F. Smith for Claimants. Nonevidentiary announcement of a Stipulation and Agreed Order accepted. Counsel to upload order.) (Edmond, Michael)



02/16/2022	<p><u>3241</u> Hearing held on 2/16/2022. (RE: related document(s)<u>2976</u> Amended Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post; Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School; CPCM, LLC; NexPoint Advisors, L.P... Filed by Debtor Highland Capital Management, L.P. (related document(s)<u>2059</u> Objection to claim filed by Debtor Highland Capital Management, L.P., <u>2974</u> Supplemental Objection to claim(s) of Creditor(s) Christopher Rice; Helen Kim; Jason Rothstein; Jerome Carter; Kari Kovelan; Kellie Stevens; Lauren Thedford; Mark Patrick; Charles Hoedebeck; Stephanie Vitiello; Steven Haltom; William Gosserand; Brian Collins; Hayley Eliason; Lucy Bannon; Mary Irving; Matthew DiOrio; Ricky Swadley; William Mabry; Jean Paul Sevilla; Jon Poglitsch; Clifford Stoops; Jason Post, Ajit Jain; Paul Broaddus; Melissa Schroth; Mauro Staltari; Will Mabry; Yegor Nikolayev; Sahar Abayarathna; Kunal Sachdev; Kent Gatzki; Scott Groff; James Mills; Bhawika Jain; Jae Lee; Cyrus Eftekhari; Tara Loiben; Michael Jeong; Will Duffy; Sarah Goldsmith; Sarah Hale; Heriberto Rios; Mariana Navejas; Joye Luu; Austin Cotton; Lauren Baker; Phoebe Stewart; Blair Roeber; Brad McKay; Jennifer School, filed by Debtor Highland Capital Management, L.P. (Appearances: G. Demo and R. Feinstein for Reorganized Debtor; F. Smith for Claimants. Nonevidentiary announcement of a Stipulation and Agreed Order accepted. Counsel to upload order.) (Edmond, Michael)</p>
02/16/2022	<p><u>3242</u> Objection to (related document(s): <u>3088</u> Motion to compromise controversy with Patrick Hagaman Daugherty. (<i>Reorganized Debtor's Motion for Entry of an Order Approving Settlement with Patrick Hagaman Daugherty (Claim No. 205) and Authorizing Actions Consistent Therewith</i>) filed by Debtor Highland Capital Management, L.P.) filed by Creditor Scott Ellington. (Smith, Frances)</p>
02/16/2022	<p><u>3243</u> Certificate of service re: Scott Ellingtons Objection to the Reorganized Debtors Motion for Entry of an Order Approving Settlement with Patrick Daugherty filed by Creditor Scott Ellington (RE: related document(s)<u>3242</u> Objection). (Smith, Frances)</p>

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021**  
**APPELLANT RECORD**  
**VOLUME 2**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

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*000001*  
*000006*  
*000008*

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

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*000479*  
*000515*  
*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)



Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) <u>2490</u> Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)



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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

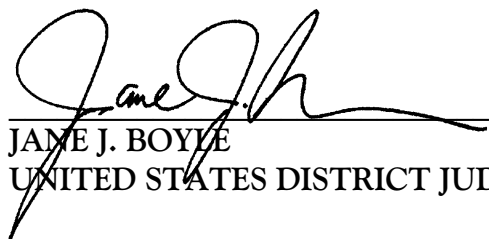
CHARITABLE DAF FUND, L.P., and §  
CLO HOLDCO, LTD., §  
§  
Plaintiffs, §  
§  
v. § CIVIL ACTION NO. 3:21-CV-0842-B  
§  
HIGHLAND CAPITAL §  
MANAGEMENT, L.P., HIGHLAND §  
HCF ADVISOR, LTD., and §  
HIGHLAND CLO FUNDING, LTD., §  
§  
Defendants. §

ORDER OF REFERENCE

Pursuant to 28 U.S.C. § 157 and this District's Miscellaneous Order No. 33, this case is hereby **REFERRED** to Judge Stacey G. C. Jernigan of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, to be adjudicated as a matter related to the consolidated Chapter 11 Bankruptcy of Highland Capital Management, L.P., Chapter 11 Case No. 19-34054. The Clerk of this Court and the Clerk of the Bankruptcy Court to which this case is hereby referred are directed to take such actions as are necessary and appropriate to cause this matter to be docketed as an Adversary Proceeding associated with the consolidated Chapter 11 Bankruptcy of Highland Capital Management, L.P., Case No. 19-34054.

SO ORDERED.

SIGNED: September 20, 2021.

  
JAMES J. BOYLE  
UNITED STATES DISTRICT JUDGE





At all relevant times, HCM was headed by CEO and potential party James P. Seery (“Seery”). Seery negotiated a settlement with the several Harbourvest<sup>2</sup> entities who owned 49.98% of HCLOF. The deal had HCM (or its designee) purchasing the Harbourvest membership interests in HCLOF for \$22.5 million. Recent revelations, however, show that the sale was predicated upon a sales price that was vastly below the Net Asset Value (“NAV”) of those interests. Upon information and belief, the NAV of HCLOF’s assets had risen precipitously, but was not disclosed to Harbourvest nor to Plaintiffs.

Under the Advisers Act, Defendants have a non-waivable duty of loyalty and candor, which includes its duty not to inside trade with its own investors, *i.e.*, not to trade with an investor to which HCM and Seery had access to superior non-public information. Upon information and belief, HCM’s internal compliance policies required by the Advisers Act would not generally have allowed a trade of this nature to go forward—meaning, the trade either was approved in spite of compliance rules preventing it, or the compliance protocols themselves were disabled or amended to a level that leaves Defendants HCM and HCLOF exposed to liability. Thus, Defendants have created an unacceptable perpetuation of exposure to liability.

Additionally, Defendants are liable for a pattern of conduct that gives rise to liability for their conduct of the enterprise consisting of HCM in relation to HCFA and HCLOF, through a pattern of concealment, misrepresentation, and violations of the securities rules. In the alternative, HCFA and HCM, are guilty of self-dealing, violations of the Advisers Act, and tortious interference by (a) not disclosing that Harbourvest had agreed to sell at a price well below the current NAV, and (b) diverting the Harbourvest opportunity to themselves.

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<sup>2</sup> “Harbourvest” refers to the collective of Harbourvest Dover Street IX Investment, L.P., Harbourvest 2017 Global AIF, L.P., Harbourvest 2017 Global Fund, L.P., HV International VIII Secondary, L.P., and Harbourvest Skew Base AIF, L.P. Each was a member of Defendant Highland CLO Funding, Ltd.

For these reasons, judgment should be issued in Plaintiffs' favor.

## II.

### PARTIES

1. Plaintiff CLO Holdco, Ltd. is a limited company incorporated under the laws of the Cayman Islands.
2. Plaintiff Charitable DAF Fund, L.P., ("DAF") is a limited partnership formed under the laws of the Cayman Islands.
3. Defendant Highland Capital Management, L.P. is a limited partnership with its principal place of business at 300 Crescent Court, Suite 700, Dallas, Texas 75201. It may be served at its principal place of business or through its principal officer, James P. Seery, Jr., or through the Texas Secretary of State, or through any other means authorized by federal or state law.
4. Defendant Highland HCF Advisor, Ltd. is a limited company incorporated under the laws of the Cayman Islands. Its principal place of business is 300 Crescent Court, Suite 700, Dallas, Texas 75201. It is a registered investment adviser ("RIA") subject to the laws and regulations of the Investment Advisers Act of 1940 (the "Adviser's Act"). It is a wholly-owned subsidiary of Highland Capital Management, L.P.
5. Nominal Defendant Highland CLO Funding, Ltd. is a limited company incorporated under the laws of the Island of Guernsey. Its registered office is at First Floor, Dorey Court, Admiral Park, St. Peter Port, Guernsey GY1 6HJ, Channel Islands. Its principal place of business is 300 Crescent Court, Suite 700, Dallas, Texas 75201.
6. Potential party James P. Seery, Jr. ("Seery") is an officer and/or director and/or control person of Defendants Highland Capital Management, L.P., Highland CLO Funding, Ltd., and Highland HCF Advisor, Ltd., and is a citizen of and domiciled in Floral Park, New York.

### III.

#### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over this dispute under 28 U.S.C. § 1331 as one or more rights and/or causes of action arise under the laws of the United States. This Court has supplemental subject matter jurisdiction over all other claims under 28 U.S.C. § 1367.

8. Personal jurisdiction is proper over the Defendants because they reside and/or have continual contacts with the state of Texas, having regularly submitted to jurisdiction here. Jurisdiction is also proper under 18 U.S.C. § 1965(d).

9. Venue is proper in this Court under 28 U.S.C. § 1391(b) and (c) because one or more Defendants reside in this district and/or a substantial part of the events or omissions giving rise to the claim occurred or a substantial part of property that is the subject of the action is situated in this district. Venue in this district is further provided under 18 U.S.C. § 1965(d).

### IV.

#### **RELEVANT BACKGROUND**

##### ***HCLOF IS FORMED***

10. Plaintiff DAF is a charitable fund that helps several causes throughout the country, including providing funding for humanitarian issues (such as veteran's welfare associations and women's shelters), public works (such as museums, parks and zoos), and education (such as specialty schools in underserved communities). Its mission is critical.

11. Since 2012, DAF was advised by its registered investment adviser, Highland Capital Management, L.P., and its various subsidiaries, about where to invest. This relationship was governed by an Investment advisory Agreement.

12. At one point in 2017, HCM advised DAF to acquire 143,454,001 shares of HCLOF, with HCFA (a subsidiary of HCM) serving as the portfolio manager. DAF did so via a holding entity, Plaintiff CLO Holdco, Ltd.

13. On November 15, 2017, through a Subscription and Transfer Agreement, the DAF entered into an agreement with others to sell and transfer shares in HCLOF, wherein the DAF retained 49.02% in CLO Holdco.

14. Pursuant to that agreement, Harbourvest acquired the following interests in the following entities:

Harbourvest Dover Street IX Investment, L.P., acquired 35.49%;

Harbourvest 2017 Global AIF, L.P., acquired 2.42%;

Harbourvest 2017 lobal Fund, L.P., acquired 4.85%;

HV International VIII Secondary, L.P., acquired 6.5%; and

Harbourvest Skew Base AIF, L.P., acquired 0.72%;

for a total of 49.98% (altogether, the “Harbourvest interests”).

15. On or about October 16, 2019, Highland Capital Management filed for Chapter 11 bankruptcy in Delaware Bankruptcy Court, which was later transferred to the Northern District of Texas Bankruptcy Court, in the case styled *In Re: Highland Capital Management, L.P., Debtor*, Cause No. 19-34054, (the “HCM Bankruptcy” and the Court is the “Bankruptcy Court”).

#### **The Harbourvest Settlement with Highland Capital Management in Bankruptcy**

16. On April 8, 2020, Harbourvest submitted its proofs of claim in the HCM bankruptcy proceeding. Annexed to its proofs of claims was an explanation of the Proof of Claim and the basis therefor setting out various pre-petition allegations of wrongdoing by HCM. *See, e.g.*, Case No. 19-bk-34054, Doc. 1631-5.



17. The debtor, HCM, made an omnibus response to the proofs of claims, stating they were duplicative of each other, overstated, late, and otherwise meritless.

18. Harbourvest responded to the omnibus objections on September 11, 2020. *See* Cause No. 19-bk-34054, Doc. 1057.

19. Harbourvest represented that it had invested in HCLOF, purchasing 49.98% of HCLOF's outstanding shares.

20. Plaintiff CLO Holdco was and is also a 49.02% holder of HCLOF's member interests.

21. In its Omnibus Response, Harbourvest explained that its claims included unliquidated legal claims for fraud, fraud in the inducement, RICO violations under 18 U.S.C. 1964, among others (the "Harbourvest Claims"). *See* Cause No. 19-bk-34054, Doc. 1057.

22. The Harbourvest Claims centered on allegations that when Harbourvest was intending to invest in a pool of Collateralized Loan Obligations, or CLOs, that were then-managed by Acis Capital Management ("Acis"), a subsidiary of HCM, HCM failed to disclose key facts about ongoing litigation with a former employee, Josh Terry.

23. Harbourvest contended that HCM never sufficiently disclosed the underlying facts about the litigation with Terry, and HCM's then-intended strategy to fight Terry caused HCLOF to incur around \$15 million in legal fees and costs. It contended that had it known the nature of the lawsuit and how it would eventually turn out, Harbourvest never would have invested in HCLOF. *See* Cause No. 19-bk-34054, Doc. 1057.

24. HCLOF's portfolio manager is HCFA. HCM is the parent of HCFA and is managed by its General Partner, Strand Management, who employs Seery and acts on behalf of HCM.

**25.** Before acceding to the Harbourvest interests, HCM was a 0.6% holder of HCLOF interests.

**26.** While even assuming Harbourvest's underlying claims were valid as far as the lost \$15 million went, the true damage of the legal fees to Harbourvest would have been 49.98% of the HCLOF losses (i.e., less than \$7.5 million). Harbourvest claimed that it had lost over \$100 million in the HCLOF transaction due to fraud, which, after trebling under the racketeering statute, it claimed it was entitled to over \$300 million in damages.

**27.** In truth, as of September 2020, Harbourvest had indeed lost some \$52 million due to the alleged diminishing value of the HCLOF assets (largely due to the underperformance of the Acis entities<sup>3</sup>)—and the values were starting to recover.

**28.** HCM denied the allegations in the Bankruptcy Court. Other than the claim for waste of corporate assets of \$15 million, HCM at all times viewed the Harbourvest legal claims as being worth near zero and having no merit.

**29.** On December 23, 2020, HCM moved the Court to approve a settlement between itself and Harbourvest. No discovery had taken place between the parties, and Plaintiff did not have any notice of the settlement terms or other factors prior to the motion's filing (or even during its pendency) in order to investigate its rights.

**30.** HCM set the hearing right after the Christmas and New Year's holidays, almost ensuring that no party would have the time to scrutinize the underpinnings of the deal.

**31.** On January 14, 2021, the Bankruptcy Court held an evidentiary hearing and approved the settlement in a bench ruling, overruling the objections to the settlement.

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<sup>3</sup> Acis was being managed by Joshua Terry. JP Morgan had listed the four ACIS entities under his management as the four worst performers of the 1200 CLOs it evaluated.

**32.** An integral part of the settlement was allowing \$45 million in unsecured claims that, at the time of the agreement, were expected to net Harbourvest around 70 cents on the dollar. In other words, Harbourvest was expected to recover around \$31,500,000 from the allowed claims.

**33.** As part of the consideration for the \$45 million in allowed claims, Harbourvest agreed to transfer all of its interests in HCLOF to HCM or its designee.

**34.** HCM and Seery rationalized the settlement value by allocating \$22.5 million of the net value of the \$45 million in unsecured claims as consideration to purchase Harbourvest's interests in HCLOF, meaning, if 70% of the unsecured claims—i.e., \$31.5 million—was realized, because \$22.5 million of that would be allocated to the purchase price of the Harbourvest interests in HCLOF, the true “settlement” for Harbourvest's legal claims was closer to \$9 million.

**35.** Plaintiffs here are taking no position at this time about the propriety of settling the Harbourvest legal claims for \$9 million. That is for another day.

**36.** At the core of this lawsuit is the fact that HCM purchased the Harbourvest interests in HCLOF for \$22.5 million knowing that they were worth far more than that.

**37.** It has recently come to light that, upon information and belief, the Harbourvest interests, as of December 31, 2020, were worth in excess of \$41,750,000, and they have continued to go up in value.

**38.** On November 30, 2020, which was less than a month prior to the filing of the Motion to Approve the Settlement, the net asset value of those interests was over \$34.5 million. Plaintiffs were never made aware of that.

**39.** The change is due to how the net asset value, or NAV, was calculated. The means and methods for calculating the “net asset value” of the assets of HCLOF are subject to and

governed by the regulations passed by the SEC pursuant to the Adviser's Act, and by HCM's internal policies and procedures.

40. Typically, the value of the securities reflected by a market price quote.

41. However, the underlying securities in HCLOF are not liquid and had not been traded in a long while.

42. There not having been any contemporaneous market quotations that could be used in good faith to set the marks<sup>4</sup> meant that other prescribed methods of assessing the value of the interests, such as the NAV, would have been the proper substitutes.

43. Seery testified that the fair market value of the Harbourvest HCLOF interests was \$22.5 million. Even allowing some leeway there, it was off the mark by a mile.

44. Given the artifice described herein, Seery and the entity Defendants had to know that the representation of the fair market value was false. But it does not appear that they disclosed it to Harbourvest to whom they owed fiduciary duties as the RIA in charge of HCLOF, and they certainly did not disclose the truth to the Plaintiff.

45. It is either the case that (i) Defendants conducted the proper analysis to obtain a current value of the assets but decided to use a far lower valuation in order to whitewash the settlement or enrich the bankruptcy estate; *or* (ii) Defendants never conducted the proper current valuation, and therefore baselessly represented what the current value of the assets was, despite knowingly having no reasonable basis for making such a claim.

46. For years HCM had such internal procedures and compliance protocols. HCM was not allowed by its own compliance officers to trade with an investor where HCM had superior knowledge about the value of the assets, for example. While Plaintiff has no reason to believe that

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<sup>4</sup> The term "mark" is shorthand for an estimated or calculated value for a non-publicly traded instrument.



those procedures were scrapped in recent months, it can only assume that they were either overridden improperly or circumvented wholesale.

47. Upon finalizing the Harbourvest Settlement Agreement and making representations to the Bankruptcy Court to the Plaintiffs about the value of the Harbourvest Interests, Seery and HCM had a duty to use current values and not rely on old valuations of the assets or the HCLOF interests.

48. Given Defendants' actual or constructive knowledge that they were purchasing Harbourvest's Interests in HCLOF for a less than 50% of what those interests were worth—Defendants owed Plaintiff a fiduciary duty not to purchase them for themselves.

49. Defendants should have either had HCLOF repurchase the interests with cash, or offer those interests to Plaintiff and the other members *pro rata*, before HCM agreed to purchase them all lock, stock and barrel, for no up-front cash.

50. Indeed, had Plaintiff been offered those interests, it would have happily purchased them and therefore would have infused over \$20 million in cash into the estate for the purpose of executing the Harbourvest Settlement.

51. That Defendants (and to perhaps a lesser extent, the Unsecured Creditors Committee (the "UCC")) agreed to pay \$22.5 million for the HCLOF assets, where they had previously not consented to any such expenditure by the estate on behalf of HCLOF, strongly indicates their awareness that they were purchasing assets for far below market value.

52. The above is the most reasonable and plausible explanation for why Defendants and the UCC forwent raising as much as \$22.5 million in cash now in favor of hanging on to the HCLOF assets.

53. Indeed, in January 2021 Seery threatened Ethen Powell that “[Judge Jernigan] is laughing at you” and “we are coming after you” in response to the latter’s attempt to exercise his right as beneficial holder of the CLO, and pointing out a conflict of interest in Seery’s plan to liquidate the funds.

54. HCM’s threat, made by Seery, is tantamount to not only a declaration that he intends to liquidate the funds regardless of whether the investors want to do so, and whether it is in their best interests, but also that HCM intends to leverage what it views as the Bankruptcy Court’s sympathy to evade accountability.

V.

**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**  
***Breaches of Fiduciary Duty***

55. Plaintiffs respectfully incorporate the foregoing factual averments as if fully set forth herein and further alleges the following:

56. HCM is a registered investment advisor and acts on behalf of HCFA. Both are fiduciaries to Plaintiffs.

57. The Advisers Act establishes an unwaivable federal fiduciary duty for investment advisers.<sup>5</sup>

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<sup>5</sup> See e.g., *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194 (1963); *Transamerica Mortg. Advisors (tama) v. Lewis*, 444 U.S. 11, 17 (1979) (“§ 206 establishes ‘federal fiduciary standards’ to govern the conduct of investment advisers.”); *Santa Fe Indus. v. Green*, 430 U.S. 462, 471, n.11 (1977) (in discussing *SEC v. Capital Gains*, stating that the Supreme Court’s reference to fraud in the “equitable” sense of the term was “premised on its recognition that Congress intended the Investment Advisers Act to establish federal fiduciary standards for investment advisers”). See also Investment Advisers Act Release No. 3060 (July 28, 2010) (“Under the Advisers Act, an adviser is a fiduciary whose duty is to serve the best interests of its clients, which includes an obligation not to subrogate clients’ interests to its own”) (*citing* Proxy Voting by Investment Advisers, Investment Advisers Act Release No. 2106 (Jan. 31, 2003)).

**58.** HCM and the DAF entered into an Amended and Restated Investment Advisory Agreement, executed between them on July 1, 2014 (the “RIA Agreement”). It renews annually and continued until the end of January 2021.

**59.** In addition to being the RIA to the DAF, HCM was appointed the DAF’s attorney-in-fact for certain actions, such as “to purchase or otherwise trade in Financial Instruments that have been approved by the General Partner.” RIA Agreement ¶ 4.

**60.** The RIA Agreement further commits HCM to value financial assets “in accordance with the then current valuation policy of the Investment Advisor [HCM], a copy of which will provided to the General Partner upon request.” RIA Agreement ¶ 5.

**61.** While HCM contracted for the recognition that it would be acting on behalf of others and could be in conflict with advice given the DAF, (RIA Agreement ¶ 12), nowhere did it purport to waive the fiduciary duties owed to the DAF not to trade as a principal in a manner that harmed the DAF.

**62.** HCFA owed a fiduciary duty to Holdco as an investor in HCLOF and to which HCFA was the portfolio manager. HCM owed a fiduciary duty to the DAF (and to Holdco as its subsidiary) pursuant to a written Advisory Agreement HCM and the DAF had where HCM agreed to provide sound investment advice and management functions.

**63.** As a registered investment adviser, HCM’s fiduciary duty is broad and applies to the entire advisor-client relationship.

**64.** The core of the fiduciary duty is to act in the best interest of their investors—the advisor must put the ends of the client before its own ends or the ends of a third party.

**65.** This is manifested in a duty of loyalty and a duty of utmost care. It also means that the RIA has to follow the terms of the company agreements and the regulations that apply to the investment vehicle.

**66.** The fiduciary duty that HCM and Seery owed to Plaintiff is predicated on trust and confidence. Section 204A of the Advisers Act requires investment advisors (whether SEC-registered or not) to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the RIA from trading on material, non-public information. *See* 17 C.F.R. § 275.206(4)-7. That means that Plaintiff should be able to take Defendants at their word and not have to second guess or dig behind representations made by them.

**67.** The simple thesis of this claim is that Defendants HCFA and HCM breached their fiduciary duties by (i) insider trading with Harbourvest and concealing the rising NAV of the underlying assets—i.e., trading with Harbourvest on superior, non-public information that was neither revealed to Harbourvest nor to Plaintiff; (ii) concealing the value of the Harbourvest Interests; and (iii) diverting the investment opportunity in the Harbourvest entities to HCM (or its designee) without offering it to or making it available to Plaintiff or the DAF.

**68.** HCM, as part of its contractual advisory function with Plaintiffs, had expressly recommended the HCLOF investment to the DAF. Thus, diverting the opportunity for returns on its investment was an additional breach of fiduciary duty.

**69.** This violated a multitude of regulations under 27 C.F.R. part 275, in addition to Rules 10b-5 and 10b5-1. 17 CFR 240.10b5-1 (“Rule 10b5-1”) explains that one who trades while possessing non-public information is liable for insider trading, and they do not necessarily have to have *used* the specific inside information.

**70.** It also violated HCM’s own internal policies and procedures.



71. Also, the regulations impose obligations on Defendants to calculate a *current* valuation when communicating with an investor, such as what may or may not be taken into account, and what cannot pass muster as a current valuation. Upon information and belief, these regulations were not followed by the Defendants.

72. HCM's internal policies and procedures, which it promised to abide by both in the RIA Agreement and in its Form ADV SEC filing, provided for the means of properly calculating the value of the assets.

73. HCM either did not follow these policies, changed them to be out of compliance both with the Adviser Act regulations and its Form ADV representations, and/or simply misrepresented or concealed their results.

74. In so doing, because the fiduciary duty owed to Plaintiff is a broad one, and because Defendants' malfeasance directly implicates its relationship with Plaintiff, Defendants have breached the Advisers Act's fiduciary duties owed to Plaintiff as part of their fiduciary relationship.<sup>6</sup>

75. At no time between agreeing with Harbourvest to the purchase of its interests and the court approval did Defendants disclose to either Harbourvest or to Plaintiff (and the Bankruptcy Court for that matter) that the purchase was at below 50% the current net asset value as well, and when they failed to offer Plaintiff (and the other members of HCLOF) their right to purchase the interests pro rata at such advantageous valuations. Plaintiff's lost opportunity to

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<sup>6</sup> See Advisers Act Release No. 4197 (Sept. 17, 2015) (Commission Opinion) (“[O]nce an investment Advisory relationship is formed, the Advisers Act does not permit an adviser to exploit that fiduciary relationship by defrauding his client in any investment transaction connected to the Advisory relationship.”); see also *SEC v. Lauer*, No. 03-80612-CIV, 2008 U.S. Dist. LEXIS 73026, at 90 (S.D. Fla. Sept. 24, 2008) (“Unlike the antifraud provisions of the Securities Act and the Exchange Act, Section 206 of the Advisers Act does not require that the activity be ‘in the offer or sale of any’ security or ‘in connection with the purchase or sale of any security.’”).

purchase has harmed Plaintiff. Plaintiff had been led to believe by the Defendants that the value of what was being purchased in the Harbourvest settlement by HCM (or its designee) was at fair market value. This representation, repeated again in the Bankruptcy Court during the Harbourvest confirmation, implicitly suggested that a proper current valuation had been performed.

**76.** Defendant's principal, Seery, testified in January 2021 that the then-current fair market value of Harbourvest's 49.98% interest in HCLOF was worth around \$22.5 million. But by then, it was worth almost double that amount and has continued to appreciate. Seery knew or should have known that fact because the value of some of the HCLOF assets had increased, and he had a duty to know the current value. His lack of actual knowledge, while potentially not overtly fraudulent, would nonetheless amount to a breach of fiduciary duty for acting without proper diligence and information that was plainly available.

**77.** Furthermore, HCLOF holds equity in MGM Studios and debt in CCS Medical via various CLO positions. But Seery, in his role as CEO of HCM, was made aware during an advisors meeting in December 2020 that Highland would have to restrict its trading in MGM because of its insider status due to activities that were likely to apply upward pressure on MGM's share price.

**78.** Furthermore, Seery controlled the Board of CCS Medical. And in or around October 2020, Seery was advocating an equatization that would have increased the value of the CCS securities by 25%, which was not reflected in the HCM report of the NAV of HCLOF's holdings.

**79.** Seery's knowledge is imputed to HCM.

**80.** Moreover, it is a breach of fiduciary duty to commit corporate waste, which is effectively what disposing of the HCLOF assets would constitute in a rising market, where there

is no demand for disposition by the investors (save for HCM, whose proper 0.6% interest could easily be sold to the DAF at fair value).

**81.** As holder of 0.6% of the HCLOF interests, and now assignee of the 49.98% Harbourvest Interests), HCM has essentially committed self-dealing by threatening to liquidate HCLOF now that it may be compelled to do so under its proposed liquidation plan, which perhaps inures to the short term goals of HCM but to the pecuniary detriment of the other holders of HCLOF whose upside will be prematurely truncated.

**82.** Seery and HCM should not be allowed to benefit from the breach of their fiduciary duties because doing so would also cause Plaintiffs irreparable harm. The means and methods of disposal would likely render the full scope of damages to the DAF not susceptible to specific calculation—particularly as they would relate to calculating the lost opportunity cost. Seery and HCM likely do not have the assets to pay a judgment to Plaintiffs that would be rendered, simply taking the lost appreciation of the HCLOF assets.

**83.** Defendants are thus liable for diverting a corporate opportunity or asset that would or should have been offered to Plaintiff and the other investors. Because federal law makes the duties invoked herein unwaivable, it is preposterous that HCM, as a 0.6% holder of HCLOF, deemed itself entitled to the all of the value and optionality of the below-market Harbourvest purchase.

**84.** Defendants cannot rely on any contractual provision that purports to waive this violation. Nothing in any agreement purports to permit, authorize or otherwise sanitize Defendants' self-dealing. All such provisions are void.

**85.** In the fourth quarter of 2020, Seery and HCM notified staff that they would be terminated on December 31, 2020. That termination was postponed to February 28, 2021.

Purchasing the Harbourvest assets without staffing necessary to be a functioning Registered Investment Advisor was a strategic reversal from prior filings that outlined canceling the CLO management contracts and allowing investors to replace Highland as manager.

**86.** Seery's compensation agreement with the UCC incentivizes him to expedite recoveries and to prevent transparency regarding the Harbourvest settlement.

**87.** What is more, Seery had previously testified that the management contracts for the funds—HCLOF included—were unprofitable, and that he intended to transfer them. But he later rejected offers to purchase those management contracts for fair value and instead decided to continue to manage the funds—which is what apparently gave rise to the Harbourvest Settlement, among others. He simultaneously rejected an offer for the Harbourvest assets of \$24 million, stating that they were worth much more than that.

**88.** Because of Defendants' malfeasance, Plaintiffs have lost over \$25 million in damages—a number that continues to rise—and the Defendants should not be able to obtain a windfall.

**89.** For the same reason, Defendants' malfeasance has also exposed HCLOF to a massive liability from Harbourvest since the assignment of those interests is now one that is likely unenforceable under the Advisers Act, Section 47(b), if there was unequal information.

**90.** HCM and HCFA are liable as principals for breach of fiduciary duty, as are the principals and compliance staff of each entity.

**91.** Plaintiffs seek disgorgement, damages, exemplary damages, attorneys' fees and costs. To the extent the Court determines that this claim had to have been brought derivatively on behalf of HCLOF, then Plaintiffs represent that any pre-suit demand would have been futile since asking HCM to bring suit against its principal, Seery, would have been futile.



**SECOND CAUSE OF ACTION**  
***Breach of HCLOF Company Agreement***  
**(By Holdco against HCLOF, HCM and HCFA)**

92. Plaintiffs respectfully incorporate the foregoing factual averments as if fully set forth herein and further alleges the following:

93. On November 15, 2017, the members of HCLOF, along with HCLOF and HCFA, executed the *Members Agreement Relating to the Company* (the “Company Agreement”).

94. The Company Agreement governs the rights and duties of the members of HCLOF.

95. Section 6.2 of HCLOF Company Agreement provides that when a member “other than ... CLO Holdco [Plaintiff] or a Highland Affiliate,” intends to sell its interest in HCLOF to a third party (i.e., not to an affiliate of the selling member), then the other members have the first right of refusal to purchase those interests pro rata for the same price that the member has agreed to sell.

96. Here, despite the fact that Harbourvest agreed to sell its interests in HCLOF for \$22.5 million when they were worth more than double that, Defendants did not offer Plaintiff the chance to buy its pro rata share of those interests at the same agreed price of \$22.5 million (adjusted pro rata).

97. The transfer and sale of the interests to HCM were accomplished as part of the Harbourvest Settlement which was approved by the Bankruptcy Court.

98. Plaintiff was not informed of the fact that Harbourvest had offered its shares to Defendant HCM for \$22.5 million—which was under 50% of their true value.

99. Plaintiff was not offered the right to purchase its pro rata share of the Harbourvest interests prior to the agreement being struck or prior to court approval being sought.

**100.** Had Plaintiff been allowed to do so, it would have obtained the interests with a net equity value over their purchase price worth in excess of \$20 million.

**101.** No discovery or opportunity to investigate was afforded Plaintiff prior to lodging an objection in the Bankruptcy Court.

**102.** Plaintiff is entitled to specific performance or, alternatively, disgorgement, constructive trust, damages, attorneys' fees and costs.

**THIRD CAUSE OF ACTION**  
***Negligence***  
**(By the DAF and CLO Holdco against HCM and HCFA)**

**103.** Plaintiffs respectfully incorporate the foregoing factual averments as if fully set forth herein, and further alleges the following:

**104.** Plaintiffs incorporate the foregoing causes of action and note that all the foregoing violations were breaches of the common law duty of care imposed by law on each of Seery, HCFA and HCM.

**105.** Each of these Defendants should have known that their actions were violations of the Advisers Act, HCM's internal policies and procedures, the Company Agreement, or all three.

**106.** Seery and HCM owed duties of care to Plaintiffs to follow HCM's internal policies and procedures regarding both the propriety and means of trading with a customer [Harbourvest], the propriety and means of trading as a principal in an account but in a manner adverse to another customer [the DAF and Holdco], and the proper means of valuing the CLOs and other assets held by HCLOF.

**107.** It would be foreseeable that failing to disclose the current value of the assets in the HCLOF would impact Plaintiffs negatively in a variety of ways.

108. It would be reasonably foreseeable that failing to correctly and accurately calculate the current net asset value of the market value of the interests would cause Plaintiffs to value the Harbourvest Interests differently.

109. It would be reasonably foreseeable that referring to old and antiquated market quotations and/or valuations of the HCLOF assets or interests would result in a mis-valuation of HCLOF and, therefore, a mis-valuation of the Harbourvest Interests.

110. Likewise, it would have been foreseeable that Plaintiff's failure to give Plaintiff the opportunity to purchase the Harbourvest shares at a \$22.5 million valuation would cause Plaintiff damages. Defendants knew that the value of those assets was rising. They further knew or should have known that whereas those assets were sold to HCM for an allowance of claims to be funded in the future, selling them to Plaintiff would have provided the estate with cash funds.

111. Defendants' negligence foreseeably and directly caused Plaintiff harm.

112. Plaintiff is thus entitled to damages.

**FOURTH CAUSE OF ACTION**  
***Racketeering Influenced Corrupt Organizations Act***  
**(CLO Holdco and DAF against HCM)**

113. Plaintiffs respectfully incorporate the foregoing factual averments as if fully set forth herein, and further alleges the following:

114. Defendants are liable for violations of the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1961 *et seq.*, for the conduct of an enterprise through a pattern of racketeering activity.

115. HCLOF constitutes an enterprise under the RICO Act. Additionally, or in the alternative, HCM, HCLA, and HCLOF constituted an association-in-fact enterprise. The purpose of the association-in-fact was the perpetuation of Seery's position at HCM and using the

Harbourvest settlement as a vehicle to enrich persons other than the HCLOF investors, including Holdco and the DAF, and the perpetuation of HCM's holdings in collateralized loan obligations owned by HCLOF, while attempting to deny Plaintiffs the benefit of its rights of ownership.

**116.** The association-in-fact was bound by informal and formal connections for years prior to the illicit purpose, and then changed when HCM joined it in order to achieve the association's illicit purpose. For example, HCM is the parent and control person over HCFA, which is the portfolio manager of HCLOF pursuant to a contractual agreement—both are registered investment advisors and provide advisory and management services to HCLOF.

**117.** Defendants injured Plaintiffs through their continuous course of conduct of the HCM-HCLA-HCLOF association-in-fact enterprise. HCM's actions (performed through Seery and others) constitute violations of the federal wire fraud, mail fraud, fraud in connection with a case under Title 11, and/or securities fraud laws, pursuant to 18 U.S.C. § 1961(1)(B) and (D).

**118.** HCM operated in such a way as to violate insider trading rules and regulations when it traded with Harbourvest while it had material, non-public information that it had not supplied to Harbourvest or to Plaintiffs.

**119.** In or about November 2020, HCM and Harbourvest entered into discussions about settling the Harbourvest Claims. Seery's conduct of HCLOF and HCLA on behalf of HCM through the interstate mails and/or wires caused HCM to agree to the purchase of Harbourvest's interests in HCLOF.

**120.** On or about each of September 30, 2020, through December 31, 2020, Seery, through his conduct of the enterprise, utilized the interstate wires and/or mails to obtain or arrive at valuations of the HCLOF interests. Seery's conduct of the enterprise caused them to cease



sending the valuation reports to Plaintiffs, which eventually allowed Plaintiffs to be misled into believing that Seery had properly valued the interests.

**121.** On or about September 30, 2020, Seery transmitted or caused to be transmitted through the interstate wires information to HCLOF investors from HCM (via HCFA), including Harbourvest, regarding the value of HCLOF interests and underlying assets.

**122.** Additionally, Seery operated HCM in such a way that he concealed the true value of the HCLOF interests by utilizing the interstate wires and mails to transmit communications to the court in the form of written representations on or about December 23, 2020, and then further transmitted verbal representations of the current market value (the vastly understated one) on January 14, 2021, during live testimony.

**123.** However, Harbourvest was denied the full picture and the true value of the underlying portfolio. At the end of October and November of 2020, HCM had updated the net asset values of the HCLOF portfolio. According to sources at HCM at the time, the HCLOF assets were worth north of \$72,969,492 as of November 30, 2020. Harbourvest's share of that would have been \$36,484,746.

**124.** The HCLOF net asset value had reached \$86,440,024 as of December 31, 2021, which means that by the time Seery was testifying in the Bankruptcy Court on January 14, 2021, the fair market value of the Harbourvest Assets was \$22.5 million, when it was actually closer to \$43,202,724. Seery, speaking on behalf of HCM, knew of the distinction in value.

**125.** On January 14, 2021, Seery also testified that he (implying HCM, HCLA and HCLOF) had valued the Harbourvest Assets at their current valuation and at fair market value. This was not true because the valuation that was used and testified to was ancient. The ostensible purpose of this concealment was to induce Plaintiff and other interest holdings to take no action.

**126.** In supporting HCM’s motion to the Bankruptcy Court to approve the Harbourvest Settlement, Seery omitted the fact that HCM was purchasing the interests at a massive discount, which would violate the letter and spirit of the Adviser’s Act.

**127.** Seery was informed in late December 2020 at an in-person meeting in Dallas to which Seery had to fly that HCLOF and HCM had to suspend trading in MGM Studios’ securities because Seery had learned from James Dondero, who was on the Board of MGM, of a potential purchase of the company. The news of the MGM purchase should have caused Seery to revalue the HCLOF investment in MGM.

**128.** In or around October 2020, Seery (who controls the Board of CSS Medical) was pursuing “equitization” of CSS Medical’s debt, which would have increased the value of certain securities by 25%. In several communications through the U.S. interstate wires and/or mails, and with Plaintiffs, and the several communications with Harbourvest during the negotiations of the settlement, Seery failed to disclose these changes which were responsible in part for the ever-growing value of the HCLOF CLO portfolio.

**129.** Seery was at all relevant times operating as an agent of HCM.

**130.** This series of related violations of the wire fraud, mail fraud, and securities fraud laws, in connection with the HCM bankruptcy, constitute a continuing pattern and practice of racketeering for the purpose of winning a windfall for HCM and himself--a nearly \$30,000,000 payday under the confirmation agreement.

**131.** The federal RICO statute makes it actionable for one’s conduct of an enterprise to include “fraud in connection with a [bankruptcy case]”. The Advisers’ Act antifraud provisions require full transparency and accountability to an advisers’ investors and clients and does not require a showing of reliance or materiality. The wire fraud provision likewise is violated when,

as here, the interstate wires are used as part of a “scheme or artifice ... for obtaining money or property by means of false ... pretenses, [or] representations[.]”

**132.** Accordingly, because Defendants’ conduct violated the wire fraud and mail fraud laws, and the Advisers’ Act antifraud provisions, and their acts and omissions were in connection with the HCM Bankruptcy proceedings under Title 11, they are sufficient to bring such conduct within the purview of the RICO civil action provisions, 18 U.S.C. § 1964.

**133.** Plaintiffs are thus entitled to damages, treble damages, attorneys’ fees and costs of suit, in addition to all other injunctive or equitable relief to which they are justly entitled.

**FIFTH CAUSE OF ACTION**  
***Tortious Interference***  
**(CLO Holdco against HCM)**

**134.** Plaintiff respectfully incorporates the foregoing factual averments as if fully set forth herein and further alleges the following:

**135.** At all relevant times, HCM owned a 0.6% interest in HCLOF.

**136.** At all relevant times, Seery and HCM knew that Plaintiff had specific rights in HCLOF under the Company Agreement, § 6.2.

**137.** Section 6.2 of HCLOF Company agreement provides that when a member “other than ... CLO Holdco [Plaintiff] or a Highland Affiliate,” intends to sell its interest in HCLOF to a third party (i.e., not an affiliate of the member), then the other members have the first right of refusal to purchase those interests pro rata for the same price that the member has agreed to sell.

**138.** HCM, through Seery, tortiously interfered with Plaintiff’s contractual rights with HCLOF by, among other things, diverting the Harbourvest Interests in HCLOF to HCM without giving HCLOF or Plaintiff the option to purchase those assets at the same favorable price that HCM obtained them.

**139.** HCM and Seery tortiously interfered with Plaintiff's contractual rights with HCLOF by, among other things, misrepresenting the fair market value as \$22.5 million and concealing the current value of those interests.

**140.** But for HCM and Seery's tortious interference, Plaintiff would have been able to acquire the Harbourvest Interests at a highly favorable price. HCM and Seery's knowledge of the rights and intentional interference with these rights has caused damage to Plaintiff CLO Holdco.

**141.** Plaintiff is therefore entitled to damages from HCM and Seery, as well as exemplary damages.

## **VI.**

### **JURY DEMAND**

**142.** Plaintiff demands trial by jury on all claims so triable.

## **VII.**

### **PRAYER FOR RELIEF**

**143.** Wherefore, for the foregoing reasons, Plaintiffs respectfully pray that the Court enter judgment in its favor and against Defendants, jointly and severally, for:

- a. Actual damages;
- b. Disgorgement;
- c. Treble damages;
- d. Exemplary and punitive damages;
- e. Attorneys' fees and costs as allowed by common law, statute or contract;
- f. A constructive trust to avoid dissipation of assets;
- g. All such other relief to which Plaintiff is justly entitled.



Dated: April 12, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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**Counsel for Plaintiffs**

**U.S. District Court  
Northern District of Texas (Dallas)  
CIVIL DOCKET FOR CASE #: 3:21-cv-00842-B**

Charitable DAF Fund et al v. Highland Capital Management LP et al  
Assigned to: Judge Jane J. Boyle  
Cause: 28:1391 Personal Injury

Date Filed: 04/12/2021  
Jury Demand: Plaintiff  
Nature of Suit: 470 Other Statutes:  
Racketeer Influenced and Corrupt  
Organizations  
Jurisdiction: Diversity

**Plaintiff**

**Charitable DAF Fund LP**

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**Defendant**

**Highland HCF Advisor Ltd**

**Defendant**

**Highland CLO Funding Ltd**

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Date Filed	#	Docket Text
04/12/2021	<u>1</u>	COMPLAINT WITH JURY DEMAND against Highland CLO Funding, Ltd., Highland Capital Management, L.P., Highland HCF Advisor, Ltd. filed by Charitable DAF Fund, CLO Holdco Ltd.. (Filing fee \$402; Receipt number 0539-11789515) Plaintiff will submit summons(es) for issuance. In each Notice of Electronic Filing, the judge assignment is indicated, and a link to the <a href="#">Judges Copy Requirements</a> and <a href="#">Judge Specific Requirements</a> is provided. The court reminds the filer that any required copy of this and future documents must be delivered to the judge, in the manner prescribed, within three business days of filing. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Sbaiti, Mazin) (Entered: 04/13/2021)
04/13/2021	<u>2</u>	Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund as to <u>1</u> Complaint . (Sbaiti, Mazin) Modified docket text on 4/13/2021 (oyh). (Entered: 04/13/2021)
04/13/2021	<u>3</u>	Request for Clerk to issue Summons filed by CLO Holdco Ltd, Charitable DAF Fund LP. (Sbaiti, Mazin) Modified linkage and docket text on 4/13/2021 (oyh). (Entered: 04/13/2021)
04/13/2021	<u>4</u>	New Case Notes: A filing fee has been paid. Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge (Judge Horan). Clerk to provide copy to plaintiff if not received electronically. (oyh) (Entered: 04/13/2021)
04/13/2021	<u>5</u>	Summons Issued as to Highland CLO Funding Ltd, Highland Capital Management LP, Highland HCF Advisor Ltd. (oyh) (Entered: 04/13/2021)
04/19/2021	<u>6</u>	MOTION for Leave to File First Amended Complalnt filed by CLO Holdco Ltd, Charitable DAF Fund LP (Attachments: # <u>1</u> Exh 1 First Amended Complaint, # <u>2</u> Exh 2 Motion for Authorization to Retain James Seery, # <u>3</u> Exh 3 Order Approving Retention of James Seery, # <u>4</u> Exh 4 Order Approving Settlement, # <u>5</u> Proposed Order) (Bridges, Jonathan) (Entered: 04/19/2021)
04/20/2021	<u>7</u>	***DISREGARD FILED IN ERROR per atty***AMENDED DOCUMENT by CLO Holdco Ltd, Charitable DAF Fund LP. Amendment to <u>6</u> MOTION for Leave to File First Amended Complalnt. <i>Amended Proposed Order</i> . (Bridges, Jonathan) Modified per atty request on 4/20/2021 (svc). (Entered: 04/20/2021)
04/20/2021	8	ELECTRONIC ORDER denying <u>6</u> Motion for Leave to File without prejudice. To the extent a motion for leave to file an amended complaint is required under Rule 15, Plaintiffs

000509

		may renew their motion after Defendants are served and have appeared. (Ordered by Judge Jane J. Boyle on 4/20/2021) (chmb) (Entered: 04/20/2021)
05/06/2021	<u>9</u>	Motion for an Order Extending the Time to File a Responsive Pleading filed by Highland Capital Management LP. (Attachments: # <u>1</u> Exhibit(s) A--Proposed Order) Attorney Zachery Z. Annable added to party Highland Capital Management LP(pty:dft) (Annable, Zachery) Modified text on 5/7/2021 (jmg). (Entered: 05/06/2021)
05/07/2021	10	ELECTRONIC ORDER granting in part and denying in part <u>9</u> Motion for Extension of Time to File Answer. Defendant Highland Capital Management, L.P. may file an answer or other responsive pleading on or before May 27, 2021. (Ordered by Judge Jane J. Boyle on 5/7/2021) (chmb) (Entered: 05/07/2021)
05/10/2021	<u>11</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879843) filed by Highland Capital Management LP (Attachments: # <u>1</u> Certificate of Good Standing) (Pomerantz, Jeffrey) (Entered: 05/10/2021)
05/10/2021	<u>12</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879878) filed by Highland Capital Management LP (Attachments: # <u>1</u> Certificate of Good Standing) (Demo, Gregory) (Entered: 05/10/2021)
05/10/2021	<u>13</u>	Application for Admission Pro Hac Vice without Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879894) filed by Highland Capital Management LP Attorney John A Morris added to party Highland Capital Management LP(pty:dft) (Morris, John) Modified text on 5/11/2021 (jmg). (Entered: 05/10/2021)
05/10/2021	<u>14</u>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Robert J. Feinstein (Filing fee \$100; Receipt number 0539-11879911) filed by Highland Capital Management LP (Attachments: # <u>1</u> Certificate of Good Standing) (Hayward, Melissa) (Entered: 05/10/2021)
05/11/2021	<u>15</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>9</u> Motion for an Order Extending the Time to File a Responsive Pleading (Annable, Zachery) (Entered: 05/11/2021)
05/12/2021	16	ELECTRONIC ORDER granting <u>11</u> Application for Admission Pro Hac Vice of Jeffrey Pomerantz. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021)
05/12/2021	17	ELECTRONIC ORDER granting <u>12</u> Application for Admission Pro Hac Vice of Gregory Demo. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021)
05/12/2021	18	ELECTRONIC ORDER granting <u>14</u> Application for Admission Pro Hac Vice of Robert Feinstein. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021)
05/12/2021	19	ELECTRONIC ORDER: <u>13</u> The Motion for Admission Pro Hac Vice filed by John Morris is deficient, as it is not accompanied by a certificate of good standing from the licensing authority of a state in which Mr. Morris is licensed to practice law. Mr. Morris must

		therefore supplement his motion. (Ordered by Judge Jane J. Boyle on 5/12/2021) (chmb) (Entered: 05/12/2021)
05/12/2021	<u>20</u>	Supplemental Document by Highland Capital Management LP as to <u>13</u> Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$100; Receipt number 0539-11879894) <i>Certificate of Good Standing</i> . (Morris, John) (Entered: 05/12/2021)
05/13/2021	<u>21</u>	ELECTRONIC ORDER granting <u>13</u> Application for Admission Pro Hac Vice of John Morris. Important Reminder: Unless excused for cause, an attorney who is not an ECF user must register within 14 days of the date the attorney appears in a case pursuant to LR 5.1(f) and LCrR 49.2(g). (Ordered by Judge Jane J. Boyle on 5/13/2021) (chmb) (Entered: 05/13/2021)
05/19/2021	<u>22</u>	MOTION for an Order to Enforce the Order of Reference filed by Highland Capital Management LP. (Attachments: # <u>1</u> Exhibit(s) A--Proposed Order) (Annable, Zachery) Modified text on 5/20/2021 (mjr). (Entered: 05/19/2021)
05/19/2021	<u>23</u>	Brief/Memorandum in Support filed by Highland Capital Management LP re: <u>22</u> MOTION for an Order to Enforce the Order of Reference. (Annable, Zachery) Modified text on 5/20/2021 (mjr). (Entered: 05/19/2021)
05/19/2021	<u>24</u>	Appendix in Support filed by Highland Capital Management LP re: <u>23</u> Brief/Memorandum in Support. (Attachments: # <u>1</u> Appendix 1, # <u>2</u> Appendix 2, # <u>3</u> Appendix 3, # <u>4</u> Appendix 4, # <u>5</u> Appendix 5, # <u>6</u> Appendix 6, # <u>7</u> Appendix 7, # <u>8</u> Appendix 8, # <u>9</u> Appendix 9, # <u>10</u> Appendix 10, # <u>11</u> Appendix 11, # <u>12</u> Appendix 12, # <u>13</u> Appendix 13, # <u>14</u> Appendix 14, # <u>15</u> Appendix 15, # <u>16</u> Appendix 16, # <u>17</u> Appendix 17, # <u>18</u> Appendix 18, # <u>19</u> Appendix 19, # <u>20</u> Appendix 20, # <u>21</u> Appendix 21, # <u>22</u> Appendix 22, # <u>23</u> Appendix 23, # <u>24</u> Appendix 24, # <u>25</u> Appendix 25, # <u>26</u> Appendix 26, # <u>27</u> Appendix 27, # <u>28</u> Appendix 28) (Annable, Zachery) Modified linkage and text on 5/20/2021 (mjr). (Entered: 05/19/2021)
05/21/2021	<u>25</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>23</u> Brief/Memorandum in Support of Motion, <u>24</u> Appendix in Support, <u>22</u> MOTION for an Order to Enforce the Order of Reference (Annable, Zachery) (Entered: 05/21/2021)
05/27/2021	<u>26</u>	MOTION to Dismiss Complaint filed by Highland Capital Management LP (Attachments: # <u>1</u> Exhibit(s) A--Proposed Order) (Annable, Zachery) Modified text on 5/28/2021 (jmg). (Entered: 05/27/2021)
05/27/2021	<u>27</u>	Brief/Memorandum in Support filed by Highland Capital Management LP re <u>26</u> MOTION to Dismiss Complain. (Annable, Zachery) (Entered: 05/27/2021)
05/27/2021	<u>28</u>	Appendix in Support filed by Highland Capital Management LP re <u>26</u> MOTION to Dismiss Complaint. (Attachments: # <u>1</u> Appendix 1, # <u>2</u> Appendix 2, # <u>3</u> Appendix 3, # <u>4</u> Appendix 4, # <u>5</u> Appendix 5, # <u>6</u> Appendix 6, # <u>7</u> Appendix 7, # <u>8</u> Appendix 8, # <u>9</u> Appendix 9, # <u>10</u> Appendix 10, # <u>11</u> Appendix 11, # <u>12</u> Appendix 12, # <u>13</u> Appendix 13) (Annable, Zachery) (Entered: 05/27/2021)
06/02/2021	<u>29</u>	Partially Opposed MOTION for Extension of Time to File Response/Reply to <u>26</u> MOTION to Dismiss ( <i>Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint</i> ), <u>22</u> MOTION for an Order to Enforce the Order of Reference filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) Modified text on 6/3/2021 (mjr). (Entered: 06/02/2021)
06/03/2021	<u>30</u>	WAIVER OF SERVICE Returned Executed as to CLO Holdco Ltd. Waiver sent on 6/1/2021; Charitable DAF Fund LP. Waiver sent on 6/1/2021. (Sbaiti, Mazin) (Entered: 06/03/2021)

06/03/2021	<u>31</u>	ELECTRONIC ORDER granting <u>29</u> Motion to Extend Time to File Response/Reply. Plaintiffs may file responses to both <u>22</u> the motion to enforce the order of reference and <u>26</u> the motion to dismiss on or before June 29, 2021. (Ordered by Judge Jane J. Boyle on 6/3/2021) (chmb) (Entered: 06/03/2021)
06/04/2021	<u>32</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re: <u>27</u> Brief/Memorandum in Support of Motion, <u>28</u> Appendix in Support, <u>26</u> MOTION to Dismiss. (Annable, Zachery) Modified text on 6/7/2021 (mjr). (Entered: 06/04/2021)
06/22/2021	<u>33</u>	Amended Civil Cover Sheet by CLO Holdco Ltd, Charitable DAF Fund LP. Amendment to <u>2</u> Supplemental Document. (Sbaiti, Mazin) Modified text on 6/23/2021 (mjr). (Entered: 06/22/2021)
06/28/2021	<u>34</u>	Unopposed MOTION for Leave to File Response to Motion to Dismiss in Excess of Page Limit filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 06/28/2021)
06/29/2021	<u>35</u>	ELECTRONIC ORDER granting <u>34</u> Unopposed Motion for Leave to File Response in Excess of Page Limit. Plaintiffs' response to Defendant's motion to dismiss may exceed the page limit by no more than ten pages. (Ordered by Judge Jane J. Boyle on 6/29/2021) (chmb) (Entered: 06/29/2021)
06/29/2021	<u>36</u>	RESPONSE filed by CLO Holdco Ltd, Charitable DAF Fund LP re: <u>22</u> MOTION for an Order to Enforce the Order of Reference (Sbaiti, Mazin) (Entered: 06/29/2021)
06/29/2021	<u>37</u>	Appendix in Support filed by CLO Holdco Ltd, Charitable DAF Fund LP re <u>36</u> Response/Objection <i>Response to Motion for an Order to Enforce the Order of Reference</i> (Sbaiti, Mazin) (Entered: 06/29/2021)
06/29/2021	<u>38</u>	RESPONSE filed by CLO Holdco Ltd, Charitable DAF Fund LP re: <u>26</u> MOTION to Dismiss ( <i>Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint</i> ) (Sbaiti, Mazin) (Entered: 06/29/2021)
06/29/2021	<u>39</u>	Appendix in Support filed by CLO Holdco Ltd, Charitable DAF Fund LP re <u>38</u> Response/Objection <i>to Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint</i> (Sbaiti, Mazin) (Entered: 06/29/2021)
07/12/2021	<u>40</u>	Unopposed MOTION for Leave to File Reply in Excess of Page Limits ( <i>Defendant Highland Capital Management, L.P.'s Unopposed Motion for Leave to Exceed Page Limit</i> ) filed by Highland Capital Management LP (Attachments: # <u>1</u> Proposed Order) (Annable, Zachery) (Entered: 07/12/2021)
07/13/2021	<u>41</u>	ELECTRONIC ORDER granting <u>40</u> Unopposed Motion for Leave to Exceed Page Limit. Defendant Highland Capital Management, L.P. may file a reply of up to fifteen pages. (Ordered by Judge Jane J. Boyle on 7/13/2021) (chmb) (Entered: 07/13/2021)
07/13/2021	<u>42</u>	REPLY filed by Highland Capital Management LP re: <u>22</u> MOTION for an Order to Enforce the Order of Reference (Annable, Zachery) (Entered: 07/13/2021)
07/13/2021	<u>43</u>	Appendix in Support filed by Highland Capital Management LP re: <u>42</u> Reply. (Annable, Zachery) Modified text on 7/14/2021 (mjr). (Entered: 07/13/2021)
07/13/2021	<u>44</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>40</u> Unopposed MOTION for Leave to File Reply in Excess of Page Limits ( <i>Defendant Highland Capital Management, L.P.'s Unopposed Motion for Leave to Exceed Page Limit</i> ) (Annable, Zachery) (Entered: 07/13/2021)
07/13/2021	<u>45</u>	REPLY filed by Highland Capital Management LP re: <u>26</u> MOTION to Dismiss ( <i>Defendant Highland Capital Management, L.P.'s Motion to Dismiss Complaint</i> ) (Annable, Zachery)



		(Entered: 07/15/2021)
07/14/2021	<u>46</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>42</u> Reply, <u>43</u> Appendix in Support, <u>45</u> Reply (Annable, Zachery) (Entered: 07/14/2021)
07/15/2021	<u>47</u>	MOTION to Strike <u>43</u> Appendix in Support filed by CLO Holdco Ltd, Charitable DAF Fund LP. (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021)
07/20/2021	<u>48</u>	RESPONSE filed by Highland Capital Management LP re: <u>47</u> MOTION to Strike <u>43</u> Appendix in Support (Annable, Zachery) (Entered: 07/20/2021)
07/23/2021	<u>49</u>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Highland Capital Management LP. (Annable, Zachery) (Entered: 07/23/2021)
07/23/2021	<u>50</u>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Charitable DAF Fund LP. (Sbaiti, Mazin) (Entered: 07/23/2021)
07/23/2021	<u>51</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>48</u> Response/Objection (Annable, Zachery) (Entered: 07/23/2021)
08/11/2021	<u>52</u>	MOTION to Take Judicial Notice of Order filed by Highland Capital Management LP (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Proposed Order) (Annable, Zachery) (Entered: 08/11/2021)
08/12/2021	<u>53</u>	ELECTRONIC ORDER granting <u>52</u> Motion to Take Judicial Notice of Order. The Court takes judicial notice that the bankruptcy court held Plaintiffs and others in contempt of its orders. See Order, In re Highland Cap. Mgmt., L.P., No. 19-34054-sgj11 (Bankr. N.D. Tex. Aug. 4, 2021) (ECF No. 2660). The Court will consider this fact in addressing the remaining pending motions in this case, which are under advisement. (Ordered by Judge Jane J. Boyle on 8/12/2021) (chmb) (Entered: 08/12/2021)
08/16/2021	<u>54</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>52</u> MOTION to Take Judicial Notice of Order (Annable, Zachery) (Entered: 08/16/2021)
08/26/2021	<u>55</u>	MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)
08/27/2021	<u>56</u>	ELECTRONIC ORDER: Defendants are ORDERED to file a response, not to exceed ten pages, to <u>55</u> Plaintiffs' motion to stay on or before September 10, 2021. No reply will be permitted. (Ordered by Judge Jane J. Boyle on 8/27/2021) (chmb) (Entered: 08/27/2021)
08/30/2021	<u>57</u>	MOTION to Dismiss <i>and Joinder in Motion to Dismiss of Highland Capital Management, L.P.</i> filed by Highland CLO Funding Ltd (Attachments: # <u>1</u> Proposed Order) Attorney Paul R Bessette added to party Highland CLO Funding Ltd(pty:dft) (Bessette, Paul) (Entered: 08/30/2021)
08/30/2021	<u>58</u>	Brief/Memorandum in Support filed by Highland CLO Funding Ltd re <u>57</u> MOTION to Dismiss <i>and Joinder in Motion to Dismiss of Highland Capital Management, L.P.</i> (Bessette, Paul) (Entered: 08/30/2021)
08/30/2021	<u>59</u>	Appendix in Support filed by Highland CLO Funding Ltd re <u>58</u> Brief/Memorandum in Support of Motion (Attachments: # <u>1</u> Exhibit(s) A - Jackson v Dear, # <u>2</u> Exhibit(s) B - Prudential Assurance v. Newman, # <u>3</u> Exhibit(s) C - Harbourvest Settlement Agreement, # <u>4</u> Exhibit(s) D - Boleat Declaration) (Bessette, Paul) (Entered: 08/30/2021)
09/10/2021	<u>60</u>	RESPONSE filed by Highland Capital Management LP re: <u>55</u> MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021)
09/13/2021	<u>61</u>	CERTIFICATE OF SERVICE by Highland Capital Management LP re <u>60</u> Response/Objection (Annable, Zachery) (Entered: 09/13/2021)

09/17/2021	<u>62</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <u>57</u> MOTION to Dismiss <i>and Joinder in Motion to Dismiss of Highland Capital Management, L.P.</i> filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) Modified text on 9/20/2021 (mjr). (Entered: 09/17/2021)
09/20/2021	<u>63</u>	ADDITIONAL ATTACHMENTS to <u>62</u> Motion for Extension of Time to File Response/Reply by Plaintiffs CLO Holdco Ltd, Charitable DAF Fund LP. (Sbaiti, Mazin) (Entered: 09/20/2021)
09/20/2021	<u>64</u>	ORDER OF REFERENCE: Pursuant to 28 U.S.C. § 157 and this District's Miscellaneous Order No. 33, this case is hereby REFERRED to Judge Stacey G. C. Jernigan of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, to be adjudicated as a matter related to the consolidated Chapter 11 Bankruptcy of Highland Capital Management, L.P., Chapter 11 Case No. 19-34054. (Ordered by Judge Jane J. Boyle on 9/20/2021) (svc) (Entered: 09/20/2021)

PACER Service Center			
Transaction Receipt			
09/29/2021 12:19:17			
<b>PACER Login:</b>	hay10501:3480530:0	<b>Client Code:</b>	HCM
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	3:21-cv-00842-B
<b>Billable Pages:</b>	7	<b>Cost:</b>	0.70

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b></p> <p>CHARITABLE DAF FUND, L.P. and CLO HOLDCO, LTD.,</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Cayman Islands</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p> <p>Sbaiti &amp; Company, PLLC. 2200 Ross Ave. Suite 4900W Dallas, Texas 75201 214-432-2899</p>	<p><b>DEFENDANTS</b></p> <p>HIGHLAND CAPITAL MANAGEMENT, L.P., HIGHLAND HCF ADVISOR, LTD.</p> <p>County of Residence of First Listed Defendant <u>Dallas, Texas</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td><b>PTF</b></td> <td><b>DEF</b></td> <td></td> <td><b>PTF</b></td> <td><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input checked="" type="checkbox"/> 4</td> <td><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input checked="" type="checkbox"/> 3</td> <td><input checked="" type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)* [Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<p><b>REAL PROPERTY</b></p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District *(specify)*     6 Multidistrict Litigation - Transfer     8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*  
 18 USC 1961 et seq.

Brief description of cause:  
 Defendants used wire and mail in relationship to Title 11 proceeding to commit fraud.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ NA    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions):* JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 4/12/2021    SIGNATURE OF ATTORNEY OF RECORD: /s/ Mazin Sbaiti

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

000515





## II.

### BACKGROUND

On August 9, 2021, Plaintiffs received notice that the Plan was now effective. *In re Highland Capital Management, L.P.*, No. 19-34054, Doc. 2700. Although one condition precedent to the effectiveness of the Plan is finality of the confirmation order, which can only happen once all appeals are resolved, that and all other conditions are waivable by the Debtor. *Id.*, Doc. 1943 at pdf 142-43 (Art. VIII at pp. 45-46). The Debtor's notice, which waived finality and any other unsatisfied conditions, makes the Plan's exculpation provisions and injunctions immediately effective.

As to exculpation, the Plan states,

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

*Id.* at pdf 144-45 (Art. IX.C at pp. 47-48 (emphasis added)). “Exculpated Parties” is a defined term in the Plan that includes the Defendants in this action. *Id.* at pdf 106 (Art. I at p. 9).

As to the injunction, the Plan states,

Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation SubTrust, and the Claimant Trust and their respective property and interests in property.

Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; provided, however, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the

date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

*Id.* at pdf 147-48 (Art. IX.F at pp. 50-51 (emphasis added)). “Enjoined Parties” is a defined term in the Plan that includes Plaintiffs. *Id.* at pdf 105 (Art. I; ¶ 56 at p.8).

Because these provisions are currently in force and prohibit Plaintiffs from continuing this action, and because the Fifth Circuit Appeal includes direct challenges to the validity of these very provisions, Plaintiffs respectfully submit that the most efficient course of action is for this Court to stay this action until the Fifth Circuit Appeal is resolved. Plaintiffs expect that any resolution of the Fifth Circuit Appeal will necessarily determine that the Plan’s exculpation and injunction provisions absolve Defendants of any liability or, alternatively, that this action can proceed.

### III.

#### ARGUMENT

This Court should exercise its inherent powers to stay all proceedings in the case until the Fifth Circuit Appeal is decided.

The Fifth Circuit has long held that “[t]he district court possesses the inherent power to control its docket.” *Marine Chance Shipping v. Sebastian*, 143 F.3d 216, 218 (5th Cir. 1998). The exercise of that power is a discretionary one. *E.g.*, *Petrus v. Bowen*, 833 F.2d 581, 583 (5th Cir. 1987) (“A trial court has broad discretion and inherent power to stay discovery until preliminary questions that may dispose of the case are determined.”)

Here, Plaintiffs ask this Court to exercise discretion in favor of efficiency and to stay all proceedings. Plaintiffs respectfully submit that, until the appeal is resolved, many complex legal questions exist that may affect the viability of this action or the forum in which it should be

litigated. Those questions—including the validity of the exculpation and injunction provisions quoted above—will likely be resolved by the Fifth Circuit Appeal. And therefore, Plaintiffs submit, judicial economy may be gained by staying all proceedings in this action pending that appeal.

#### IV.

#### CONCLUSION

Plaintiffs appear to be wholly prohibited from participating further in this action by the now-effective terms of the Plan that purport to enjoin Plaintiffs and exculpate Defendants. In light of their inability to conduct the litigation and the pending Fifth Circuit Appeal, which that court has certified for direct appeal, Plaintiffs respectfully submit that the most appropriate course for this Court is to stay all proceedings until the appeal is decided. Plaintiffs therefore respectfully request a stay and all further relief to which they may be entitled.

Dated: August 26, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Jonathan Bridges*

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**Counsel for Plaintiffs**



**CERTIFICATE OF CONFERENCE**

I hereby certify that, in a series of communications between August 13 and 26, 2021, I conferred with Defendant's counsel regarding this Motion, and counsel indicated that they are opposed to the relief sought in this Motion.

*/s/ Jonathan Bridges*  
\_\_\_\_\_  
Jonathan Bridges

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*Counsel for Highland Capital Management, L.P.*

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

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.,

Plaintiffs,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.,

Defendants.

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Case No. 3:21-cv-00842-B

**HIGHLAND CAPITAL MANAGEMENT, L.P.’S OPPOSITION TO  
PLAINTIFFS’ MOTION TO STAY ALL PROCEEDINGS**

Highland Capital Management, L.P., the reorganized debtor (“Highland”) and a defendant in the above-captioned action (the “Action”), submits this opposition (the “Opposition”) to *Plaintiffs’ Motion to Stay All Proceedings* [Docket No. 55] (the “Motion”). In support of its Opposition, Highland states as follows.

### I. PRELIMINARY STATEMENT<sup>1</sup>

1. Plaintiffs fail to satisfy their heavy burden of showing the extraordinary remedy of a stay of this Action is warranted. Indeed, Plaintiffs cannot meet, and do not even address, the strict four-pronged test routinely applied to a request for a stay pending appeal in the Fifth Circuit. For example, (i) Plaintiffs *cannot* succeed on the merits because they are not parties to the underlying Appeal, (ii) there is no irreparable harm in the absence of a stay, and (iii) a stay would not serve the public interest.

2. Plaintiffs’ entire Motion is premised on: (i) a pending Appeal of the Confirmation Order to which Plaintiffs are not parties and (ii) Plan provisions that are not even the subject of the pending Appeal. Significantly, three courts—the Bankruptcy Court, the United States District Court, and the Fifth Circuit Court of Appeals—have already denied motions to stay the Confirmation Order that were filed by the actual Appellants to the underlying Appeal. There is no basis for Plaintiffs to obtain a stay of the Confirmation Order when the Appellants could not obtain a stay pending their own Appeal of the Confirmation Order. Finally, Plaintiffs’ reliance on certain Plan provisions, such as the Injunction Provision, is misplaced. The extraordinary remedy of a stay has no application, or relevance, to the Plan. Any stay of this Action premised on the Appeal of the Plan is simply not an appropriate remedy here.<sup>2</sup>

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<sup>1</sup> All capitalized terms used but not defined in this section have the meanings given to them below.

<sup>2</sup> With the passage of the Effective Date, Plaintiffs are enjoined from continuing this Action pursuant to the injunction provision contained in the Confirmation Order. *See* Confirmation Order, Art. IX. Counsel for the parties “met and conferred” about the propriety of a stay before Plaintiffs filed their Motion. As part of those communications, and in

## II. RELEVANT BACKGROUND

### A. Case Background

3. On October 16, 2019 (the “Petition Date”), Highland commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Case”).

### B. The Plan and Confirmation Order

4. On February 22, 2021, the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) entered its *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Docket No. 1943]<sup>3</sup> (the “Confirmation Order”) which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P (as Modified)* (the “Plan”). Pursuant to the Plan, as of the Effective Date (as defined in the Plan), Enjoined Parties (as defined in the Plan) are prohibited from pursuing or continuing actions of any kind against Highland (the “Injunction Provision”). The Plan and the Confirmation Order each provide, in pertinent part:

#### Injunction

Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, **all Enjoined Parties are and shall be permanently enjoined**, on and after the Effective Date, with respect to any Claims and Equity Interests, **from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor**, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment,

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order to avoid the cost, expense, and delay associated with the Motion, Highland offered to allow the Action to proceed in the District Court and to jointly seek a comfort order from the Bankruptcy Court in support of that solution. Plaintiffs declined the offer and now seek an indeterminate stay of the Action. Accordingly, in light of the injunction provision and other Plan provisions, Highland intends to file a motion to dismiss the Action in the near future.

<sup>3</sup> Refers to the docket maintained in the Bankruptcy Case.



award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation SubTrust, and the Claimant Trust and their respective property and interests in property.

...

**The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable** and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

Bankr. Docket No. 1943 (Confirmation Order) at 76-78, and Ex. A (Plan) at 50-51 (emphasis added). By their terms, the Confirmation Order and Plan expressly enjoin Plaintiffs from continuing the Action.

### C. Motions to Stay Pending Appeals of Confirmation Order

6. In March 2021, James Dondero and certain of his related entities, including: (i) Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc. (collectively, the “Funds”); (ii) Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (together, the “Advisors”); and (iii) The Dugaboy Investment Trust (the “Trust,” and together with James Dondero, the Advisors, and the Funds, the “Appellants”) (a) appealed the Confirmation Order<sup>4</sup> in the Bankruptcy Court, and (b) sought a stay of

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<sup>4</sup> See Bankr. Docket Nos. 1957, 1966, 1970, and 1972, respectively.

the Confirmation Order pending appeal (the “Bankruptcy Court Stay Motions”).<sup>5</sup> Plaintiffs did not object to the Plan and did not appeal the Confirmation Order.

7. On March 16, 2021, the Bankruptcy Court entered an *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit* [Docket No. 2034] (the “Certification Order”).

9. On March 24, 2021, the Bankruptcy Court entered orders<sup>6</sup> denying the Bankruptcy Court Stay Motions (the “First Stay Denials”), finding, among other things, that Appellants “did not meet their burden of proof on the four-factor test articulated in case law to obtain a discretionary stay pending appeal.” [Bankr. Docket No. 2095 at 3].

10. In April 2021, Appellants filed motions for a stay pending appeal of the Confirmation Order in the District Court for the Northern District of Texas, Dallas Division (the “District Court”) (collectively, the “District Court Stay Motions”).<sup>7</sup>

11. Appellants subsequently filed petitions for direct appeal of the Confirmation Order to the Fifth Circuit.<sup>8</sup> On May 4, 2021, the Fifth Circuit entered an Order granting the Advisors’ Petition for direct appeal,<sup>9</sup> and on June 2, 2021, the Fifth Circuit entered an Order granting the remaining Appellants’ Petitions for direct appeal (collectively, the “Appeal”).<sup>10</sup>

12. On May 19, 2021—shortly after the District Court Stay Motions became ripe—the Advisors filed a stay motion in the Fifth Circuit pending appeal of the Confirmation Order based on arguments identical to those asserted in the District Court Stay Motions (the “Fifth Circuit Stay

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<sup>5</sup> See Bankr. Docket Nos. 1955, 1967, 1971, and 1973, respectively.

<sup>6</sup> See Bankr. Docket Nos. 2084 and 2095, respectively.

<sup>7</sup> See Case Nos. 3:21-cv-550 (Docket No. 5); 3:21-cv-538, 3:21-cv-539, and 3:21-cv-546.

<sup>8</sup> See Case No. 21-90011, Documents 515826308, 515803515, 515824511, 515824443.

<sup>9</sup> See Case No. 21-90011, Document 515847079.

<sup>10</sup> See Case No. 21-90011, Document 515884578.

Motion”).<sup>11</sup> On June 21, 2021, the Fifth Circuit denied the Fifth Circuit Stay Motion (the “Second Stay Denial”).<sup>12</sup>

13. On June 23, 2021, the District Court entered its Order denying the District Court Stay Motions [Dist. Ct. Docket No. 18] (the “Third Stay Denial,” and together with the First Stay Orders and Second Stay Order, the “Stay Denials”) on the ground that “the Fifth Circuit has already reviewed and denied a motion with identical arguments.” *Id.* at 3.

**D. The Commencement of the Action and the Pending Motions**

14. On April 12, 2021, Plaintiffs commenced the Action in which they assert claims against Highland, including breach of contract, breach of fiduciary duty, and RICO violations (collectively, the “Claims”), purportedly arising rise from Highland’s post-petition settlement with HarbourVest—a settlement approved by the Bankruptcy Court.

15. In response to the Complaint, Highland filed its (i) *Motion for an Order to Enforce the Order of Reference* [Docket No. 22] (the “Motion to Enforce Order of Reference”) and (ii) *Motion to Dismiss Complaint* [Docket No. 26] (the “Motion to Dismiss”). These two motions (the “Pending Motions”) have been fully briefed and are pending before this Court.

**E. The Plan Becomes Effective**

15. On August 11, 2021, the Plan became Effective (as defined in the Plan), and Highland became the Reorganized Debtor (as defined in the Plan). *See Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Bankr. Docket No. 2700].

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<sup>11</sup> See Case No. 21-10449, Document 515869234.

<sup>12</sup> See Case No. 21-10449, Document 515906886.

**F. Plaintiffs Move for a Stay of the Action**

16. On August 26, 2021, Plaintiffs filed the instant Motion, requesting a stay of the Action pending resolution of the Fifth Circuit Appeal of the Confirmation Order. In support of their Motion, Plaintiffs contend that the Appeal “includes direct challenges to the validity” of the Plan’s exculpation and injunction provisions, that these “provisions are currently in force and prohibit Plaintiffs from continuing this [A]ction,” and the “most efficient course of action” is for a stay. Motion at 3-4.

17. For the reasons that follow, the Court should (i) deny the Motion, (ii) render rulings on the Pending Motions, and (iii) otherwise permit the Action to proceed.

**III. ARGUMENT**

18. Plaintiffs fail to demonstrate that a stay of the Action is warranted.

19. In their Motion, Plaintiffs fail to address—let alone satisfy—the strict four-pronged test required for a stay pending appeal in the Fifth Circuit. A stay pending appeal is warranted only if a movant establishes the following four elements: (1) substantial likelihood of success on the merits of its appeal; (2) irreparable injury if the stay is not granted; (3) the stay will not substantially harm other parties; and (4) the stay would serve the public interest. *See Belcher v. Birmingham Trust Nat’l Bank*, 395 F.2d 685, 686 (5th Cir. 1968); *In re First S. Sav. Ass’n*, 820 F.2d 700, 704 (5th Cir. 1987). The moving party “bears the burden of establishing its need,” and “must ‘make out a clear case of hardship or inequity in being required to go forward.’” *Earl v. Boeing Co.*, 4:19-CV-507, 2021 WL 1080689, at \*3 (E.D. Tex. Mar. 18, 2021) (internal quotations omitted).

20. For obvious reasons, Plaintiffs ignore these four factors in their Motion. Plaintiffs did not object to or appeal the Confirmation Order. Instead, Plaintiffs seek a stay of the Action premised on a pending Appeal (a) in which (i) they are not parties and (ii) there is no challenge



that part of the injunction prohibiting Plaintiffs from proceeding with the Action in this Court; and (b) where three different courts, including this Court and the Fifth Circuit, issued the Stay Denials against the Appellants when they requested stays pending this same Appeal. Plaintiffs have no standing to seek a stay pending the Appeal that they did not appeal and, therefore, cannot satisfy the “likelihood of success” element. Plaintiffs equally fail to show any irreparable injury in the absence of a stay or that a stay would serve the public interest. For these reasons alone, the Motion should be denied.

21. Plaintiffs’ vague and conclusory assertion that “many complex legal questions exist” in the Fifth Circuit Appeal that “may affect the viability of this Action” also does not support the imposition of a stay. Motion at 4. Again, three courts, including the Fifth Circuit, have already rejected stay motions premised on this Appeal.

22. Finally, Plaintiffs’ reliance on the Injunction Provision is misguided. *See* Motion at 4. While Highland maintains that Plaintiffs are enjoined from continuing the Action based on this very provision, the remedy of a stay of proceedings is an entirely distinct procedural device that has no application to the Plan or the Appeal. There is also nothing in the Injunction Provision that prohibits this Court from ruling on the Pending Motions; that provision only applies to “Enjoined Parties.”

23. To the extent Plaintiffs rely on the exculpation provision, such reliance is irrelevant for purposes of the Motion.<sup>13</sup> Plaintiffs otherwise fail to demonstrate why the extraordinary remedy of a stay of this Action is warranted or appropriate. Accordingly, Plaintiffs’ Motion is without merit and should be summarily denied by the Court.

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<sup>13</sup> That provision deals with the exculpation from liability of Highland’s independent directors, their agents, and their advisors. *See* Plan, Art. IX.C. Neither Highland nor the viability of this Action is implicated by such a provision.

**CONCLUSION**

WHEREFORE, Highland respectfully requests that the Court (i) deny the Motion in its entirety, (ii) render rulings on the Pending Motions, and (iii) grant such other and further relief as the Court deems just and proper.

Dated: September 10, 2021.

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*Counsel for Highland Capital Management, L.P.*

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., <sup>1</sup>	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
CHARITABLE DAF FUND, L.P., AND CLO	§	
HOLDCO, LTD., DIRECTLY AND	§	
DERIVATELY,	§	
Plaintiffs,	§	Adversary Proceeding No.
vs.	§	21-03067-sgj
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD.,	§	
NOMINALLY,	§	
Defendants.	§	

<sup>1</sup> The Reorganized Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.



**NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that the following motions (collectively, the “Motions”) pending in the above-referenced adversary proceeding have been scheduled for hearing on **Tuesday, November 23, 2021 at 9:30 a.m. (Central Time)** (the “Hearing”):

1. *Plaintiffs’ Motion to Stay All Proceedings* [AP Docket No. 55];
2. *Motion to Strike Reply Appendix* [AP Docket No. 47]; and
3. *Defendant Highland Capital Management, L.P.’s Motion to Dismiss Complaint* [AP Docket No. 26].

The Hearing on the Motions will be held via WebEx videoconference before The Honorable Stacey G. C. Jernigan, United States Bankruptcy Judge. The WebEx video participation/attendance link for the Hearing is: <https://us-courts.webex.com/meet/jerniga>.

A copy of the WebEx Hearing Instructions for the Hearing is attached hereto as **Exhibit A**; alternatively, the WebEx Hearing Instructions for the Hearing may be obtained from Judge Jernigan’s hearing/calendar site at: <https://www.txnb.uscourts.gov/judges-info/hearing-dates/judge-jernigans-hearing-dates>.

*[Remainder of Page Intentionally Left Blank]*

Dated: October 19, 2021.

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**EXHIBIT A**

## WebEx Hearing Instructions Judge Stacey G. Jernigan

Pursuant to General Order 2020-14 issued by the Court on May 20, 2020, all hearings before Judge Stacey G. Jernigan are currently being conducted by WebEx videoconference unless ordered otherwise.

### **For WebEx Video Participation/Attendance:**

Link: <https://us-courts.webex.com/meet/jerniga>

### **For WebEx Telephonic Only Participation/Attendance:**

Dial-In: 1.650.479.3207

Meeting ID: 479 393 582

### **Participation/Attendance Requirements:**

- Counsel and other parties in interest who plan to actively participate in the hearing are encouraged to attend the hearing in the WebEx video mode using the WebEx video link above. Counsel and other parties in interest who will not be seeking to introduce any evidence at the hearing and who wish to attend the hearing in a telephonic only mode may attend the hearing in the WebEx telephonic only mode using the WebEx dial-in and meeting ID above.
- Attendees should join the WebEx hearing at least 10 minutes prior to the hearing start time. Please be advised that a hearing may already be in progress. During hearings, participants are required to keep their lines on mute at all times that they are not addressing the Court or otherwise actively participating in the hearing. The Court reserves the right to disconnect or place on permanent mute any attendee that causes any disruption to the proceedings. For general information and tips with respect to WebEx participation and attendance, please see Clerk's Notice 20-04: [https://www.txnb.uscourts.gov/sites/txnb/files/hearings/Webex%20Information%20and%20Tips\\_0.pdf](https://www.txnb.uscourts.gov/sites/txnb/files/hearings/Webex%20Information%20and%20Tips_0.pdf)
- **Witnesses are required to attend the hearing in the WebEx video mode and live testimony will only be accepted from witnesses who have the WebEx video function activated.** Telephonic testimony without accompanying video will not be accepted by the Court.
- All WebEx hearing attendees are required to comply with Judge Jernigan's Telephonic and Videoconference Hearing Policy (included within Judge Jernigan's Judge-Specific Guidelines): <https://www.txnb.uscourts.gov/content/judge-stacey-g-c-jernigan>

### **Exhibit Requirements:**

- Any party intending to introduce documentary evidence at the hearing must file an exhibit list in the case with a true and correct copy of each designated exhibit filed as a separate, individual attachment thereto so that the Court and all participants have ready access to all designated exhibits.
- If the number of pages of such exhibits exceeds 100, then such party must also deliver two (2) sets of such exhibits in exhibit binders to the Court by no later than twenty-four (24) hours in advance of the hearing.

### **Notice of Hearing Content and Filing Requirements:**

**IMPORTANT:** For all hearings that will be conducted by WebEx only:

- The Notice of Hearing filed in the case and served on parties in interest must: (1) provide notice that the hearing will be conducted by WebEx videoconference only, (2) provide notice of the above WebEx video participation/attendance link, and (3) attach a copy of these WebEx Hearing Instructions or provide notice that they may be obtained from Judge Jernigan's hearing/calendar site: <https://www.txnb.uscourts.gov/judges-info/hearing-dates/judge-jernigans-hearing-dates>.
- When electronically filing the Notice of Hearing via CM/ECF select "at https://us-courts.webex.com/meet/jerniga" as the location of the hearing (note: this option appears immediately after the first set of Wichita Falls locations). Do not select Judge Jernigan's Dallas courtroom as the location for the hearing.

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

**PLAINTIFFS’ AMENDED MOTION TO STAY ALL PROCEEDINGS**

**I.**

**NECESSITY OF MOTION**

Plaintiffs submit this Motion as a result of the effective date, August 11, 2021, of Defendant Highland Capital Management L.P.’s Chapter 11 plan of reorganization (the “Plan”). The Plan

purports to exculpate Defendants from liability and enjoin Plaintiffs from pursuing actions against them. It also contains an assertion of exclusive jurisdiction by the bankruptcy court.

An appeal of the Plan, which the Fifth Circuit certified for direct appeal under 28 U.S.C. § 158(d), is now before the Court of Appeals and captioned *In re Highland Capital Management, L.P.*, No. 21-10449 (the “Fifth Circuit Appeal”). Each of the issues noted above is raised in the appeal. If successful, the appeal will overturn the exculpation, injunction, and assertion of exclusive jurisdiction in the Plan, allowing Plaintiffs to proceed with this action.

In the meantime, however, Plaintiffs are enjoined from participating further in this pending case and therefore ask that it be stayed pending the outcome of the Fifth Circuit Appeal.

## II.

### BACKGROUND

On August 9, 2021, Plaintiffs received notice that the Plan was now effective. *In re Highland Capital Management, L.P.*, No. 19-34054, Doc. 2700. Although one condition precedent to the effectiveness of the Plan is finality of the confirmation order, which can only happen once all appeals are resolved, that and all other conditions are waivable by the Debtor. *Id.*, Doc. 1943 at pdf 142-43 (Art. VIII at pp. 45-46). The Debtor’s notice, which waived finality and any other unsatisfied conditions, makes the Plan’s exculpation provisions and injunctions immediately effective. Plaintiffs respectfully submit that the Final Plan permanently enjoins this lawsuit. It provides:

Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, **all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or**

attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation SubTrust, and the Claimant Trust and their respective property and interests in property.

(the “Final Plan Injunction”) *Id.* at pdf 147-48 (ART. IX.F at pp. 50-51 (underlining and emphasis added)). “Enjoined Parties” is a defined term in the Plan that includes Plaintiffs. *Id.* at pdf 105 (Art. I; ¶ 56 at p.8).

Because these provisions are currently in force and prohibit Plaintiffs from continuing this action, and because the Fifth Circuit Appeal includes direct challenges to the enforceability and validity of these very provisions, Plaintiffs respectfully submit that the most efficient course of action is for this Court to stay this action until the Fifth Circuit Appeal is resolved.

Plaintiffs expect that resolution of the Fifth Circuit Appeal will determine either that the Plan’s exculpation and injunction provisions absolve Defendant Debtor of any liability (thus rendering moot the claims against the two non-debtor defendants) or, alternatively, that this action can proceed.

### III.

#### ARGUMENT

This Court should stay all proceedings in the case until the Fifth Circuit Appeal is decided. The Fifth Circuit has long held that “[t]he district court possesses the inherent power to control its

docket.” *Marine Chance Shipping v. Sebastian*, 143 F.3d 216, 218 (5th Cir. 1998). The exercise of that power is a discretionary one. *E.g.*, *Petrus v. Bowen*, 833 F.2d 581, 583 (5th Cir. 1987) (“A trial court has broad discretion and inherent power to stay discovery until preliminary questions that may dispose of the case are determined.”).

Here, Plaintiffs ask this Court to exercise discretion in favor of common sense and efficiency and stay all proceedings. Plaintiffs respectfully submit that, until the appeal is resolved, there are several complex legal questions exist that may affect the viability of this action or the forum in which it should be litigated.

Those questions—including the validity of the Final Plan provisions quoted above—will in all likelihood be resolved by the Fifth Circuit Appeal. And therefore, Plaintiffs submit, judicial and party resources would be best preserved by simply staying all proceedings in this action pending that appeal.

Highland, on the other hand, contends that this Court should deny the stay, and decide its pending 12(b)(6) motion on the merits. This Court should not do so for a few reasons:

***First***, it would seem that the entire purpose of the Final Plan Injunction is to simply put all litigation against the debtor to an end—thus avoiding the necessity of litigating the merits (and the attendant expenditures of time and money). “Article III of the Constitution limits federal ‘Judicial Power,’ that is, federal-court jurisdiction, to ‘Cases’ and ‘Controversies.’” *United States Parole Comm'n v. Geraghty*, 445 U.S. 388, 395, 100 S. Ct. 1202 (1980). This Court’s Final Plan Injunction has effectively disposed of the matter and this Court can simply enforce it irrespective of the merits of this dispute, rendering the 12(b)(6) motion, and the issues raised therein, moot. *Accord Powell v. McCormack*, 395 U.S. 486, 496, 89 S. Ct. 1944, 1951 (1969) (“Simply stated, a case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in



the outcome.”); *Iron Arrow Honor Soc'y v. Heckler*, 464 U.S. 67, 72-73 (1983) (“Because of the position that the University has taken irrespective of the outcome of this lawsuit, we conclude that the case is moot and that the Court of Appeals had no jurisdiction to decide it.”). Indeed, were this Court to issue an opinion resolving the underlying claims on the merits, it would be an advisory opinion, which this Court lacks jurisdiction to issue. *See Villas at Parkside Partners v. City of Farmers Branch*, 577 F. Supp. 2d 880, 885 (N.D. Tex. 2008).

**Second**, this Court should not force Plaintiffs (or their counsel) to argue the 12(b)(6) motion because this Court has specifically enjoined them from “conducting or continuing in any manner” any claim against the Debtor. Plaintiffs and their Counsel are rightfully concerned that by arguing the 12(b)(6) motion in favor of non-dismissal, they would be violating the Final Plan Injunction and would be subject to sanctions.

**Third**, were this Court to deny the stay, Plaintiffs would respectfully submit that the merits of the 12(b)(6) motion must be decided by the district court under 15 U.S.C. § 157(d). While the district court referred this case to this Court for general proceedings under the standing order (*see* Doc. 64), because the 12(b)(6) Motion involves issues of federal securities laws and regulations, withdrawal of the reference is mandatory. Plaintiffs are again concerned, however, that by moving to withdraw the reference, that could be construed as “conducting or continuing” a claim against the Debtor, once again opening Plaintiffs and their counsel to potential sanctions for violations of the injunction. Accordingly, if this Court intends to deny the stay for any reason, Plaintiffs respectfully submit here, as an offer of proof, a proposed motion to withdraw the reference, which they would file were they not enjoined from conducting or continuing this litigation. The proposed motion is attached hereto as Exhibit A.

**Finally**, Highland's position is contrary to the position it has taken in two other matters. Specifically, there, Highland moved to lift the stays granted in those cases and have the cases dismissed based upon the Final Plan Injunction. *PCMG Trading Partners XXIII, L.P. v. Highland Capital Management L.P.*, No. 3:21-cv-01169-N (N.D. Dist. Tex.) (Docs. 8 through 13) and *The Charitable DAF Fund, L.P. v. Highland Capital Management L.P.*, No. 3:21-cv-01710-N (N.D. Dist. Tex.) (Docs. 8 through 13). That Highland requested dismissal pursuant to the Final Plan Injunction in those cases but not here is revealing. The Final Plan Injunction is the only basis to dismiss this case. As for why this Court should stay this proceeding and not dismiss outright based upon its Final Plan Injunction, that answer is predicated on judicial and party efficiency. Were this Court to dismiss this action based upon the Final Plan Injunction, Plaintiffs would be forced to appeal the dismissal predicated, at least in part, on the validity of the injunction. That would likely then dovetail with the pending appeal of the Final Plan, *writ large*. If the Fifth Circuit Appeal were to result in reversal of the Final Plan Injunction, then the case would be right back here and could at that time proceed to the merits. If the appeal were to ultimately result in an affirmance, then this Court could simply dismiss the case based upon the Final Plan Injunction. There is no reason for the additional cost of attorney time and paperwork of triggering an appeal, docketing the appeal, designating the appellate record, etc.

#### IV.

#### **CONCLUSION**

Plaintiffs are wholly prohibited from participating further in this action by the now-effective terms of the Plan that purport to enjoin Plaintiffs and exculpate Defendant Highland. In light of their inability to conduct the litigation and the pending Fifth Circuit Appeal, which that court has certified for direct appeal. Plaintiffs respectfully submit that the most appropriate course

for this Court is to stay all proceedings until the appeal is decided, or dismiss the action based upon the Final Plan Injunction. Plaintiffs therefore respectfully request a stay and all further relief to which they may be entitled.

Dated: November 18, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

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***COUNSEL FOR PLAINTIFFS***

**CERTIFICATE OF CONFERENCE**

I hereby certify that, in a series of communications between August 13 and 26, 2021, I conferred with Defendant's counsel regarding this Motion, and counsel indicated that they are opposed to the relief sought in this Motion.

*/s/ Jonathan Bridges*

Jonathan Bridges

# EXHIBIT A



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and CLO Holdco, Ltd.*

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

**MOTION TO WITHDRAW REFERENCE AND BRIEF IN SUPPORT**

The Charitable DAF Fund, L.P. and CLO Holdco, Ltd., Plaintiffs in the above-referenced adversary proceeding, file this Motion under 28 U.S.C. § 157(d), Rule 5011 of the Federal Rules of Bankruptcy Procedure, and Rule 5011-1 of the Local Bankruptcy Rules, and respectfully ask the Court to withdraw the reference pursuant to its standing order, Ord. of Reference of Bankr.

Cases & Proc. Nunc Pro Tunc, In re Misc. Ord. No. 3:04-MI-00033 (N.D. Tex. Oct. 4, 1982), as to the above-referenced adversary proceeding.

### **A. Withdrawal Of The Reference Is Mandatory**

1. This adversary proceeding primarily involves fiduciary duties imposed upon Registered Investment Advisers by the Investment Advisers Act of 1940 (“Advisers Act”) and corresponding state law claims for breach of those duties. It also involves causes of action under the civil RICO statute, for which breaches of Advisers Act fiduciary duties serve as the predicate act. As a result, presiding over this action will require extensive consideration of federal laws regulating interstate commerce, which renders withdrawal of the reference to bankruptcy court mandatory under 28 U.S.C. § 157(d).

2. Under § 157(d), withdrawal of the reference is mandatory when a proceeding “requires consideration” of non-bankruptcy federal laws regulating interstate commerce:

The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

28 U.S.C. § 157(d); *cf. TMT Procurement Corp. v. Vantage Drilling Co. (In re TMT Procurement Corp.)*, 764 F.3d 512, 523 & n.40 (5th Cir. 2014) (noting bankruptcy court’s “more limited jurisdiction” as a result of its “limited power” under 28 U.S.C. § 157); *LightSquared Inc. v. Deere & Co.*, 2014 U.S. Dist. LEXIS 14752 (S.D.N.Y. 2014) (quoting *Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 454 B.R. 307, 312 (S.D.N.Y. 2011), for the proposition that, “[i]n determining whether withdrawal is mandatory, the Court ‘need not evaluate the merits of the parties’ claims; rather, it is sufficient for the Court to determine that the proceeding will involve

consideration of federal non-bankruptcy law”); *In re Cont'l Airlines Corp.*, 50 B.R. 342, 360 (S.D. Tex. 1985), *aff'd*, 790 F.2d 35 (5th Cir. 1986) (“While that second clause [of § 157(d)] might not apply when some ‘other law’ only tangentially affects the proceeding, it surely does apply when federal labor legislation will likely be material to the proceeding’s resolution.”) (emphasis added).

3. Plainly here, the claims in the Complaint at least involve federal laws “regulating organizations or activities affecting interstate commerce.” The Advisers Act and the RICO statute are such laws, and at least the first and fourth counts of the Complaint sound under them. *See, e.g.*, Complaint ¶¶ 57 & n.5, 66, 69, 74 & n.6, 89 (explicitly invoking various provisions of the Advisers Act and accompanying regulations), 114, 117, 131, 132 (invoking the RICO statute). Defendant’s entire argument against withdrawal of the reference thus turns on whether these laws “must be considered.”

4. It is readily apparent that these statutes must be considered in this adversary proceeding. The briefing already puts at issue significant, hotly contested issues regarding the interplay of bankruptcy law and the Advisers Act, including

- Whether Defendant owed fiduciary duties under the Advisers Act that are unwaivable;
- To whom such duties are owed and whether they were violated;
- Whether such Advisers Act fiduciary duties can be terminated by a blanket release in a bankruptcy settlement;
- Whether res judicata applies to bar claims for breach of Advisers Act duties that had not yet accrued at the time of the action alleged to have barred them;
- Whether a contractual jury waiver is enforceable as to claims for breach of unwaivable Advisers Act fiduciary duties;
- Whether such waivers can be enforced as to non-parties to the waiver;
- Whether breach of Advisers Act fiduciary duties can serve as a predicate for civil RICO liability under the RICO statute, among other significant legal issues.

Presiding over this action most certainly will require consideration of all these issues.

5. Before joining the Fifth Circuit, Judge Clement addressed a similar matter during her time in the Eastern District of Louisiana. There, in *In re Harrah's Entm't*, 1996 U.S. Dist. LEXIS 18097, at \*7-8 (E.D. La. 1996), she denied a motion to refer a federal securities action to bankruptcy court, despite finding that the bankruptcy court had related-to jurisdiction. Judge Clement wrote,

Although “related to” bankruptcy jurisdiction exists over the non-debtor plaintiffs’ non-bankruptcy federal securities claims against non-debtor defendants, placing that bankruptcy jurisdiction in the bankruptcy court is inappropriate because plaintiffs would be entitled to a mandatory withdrawal of the reference. Rather than waste judicial resources on a meaningless referral to bankruptcy court, the Court will retain jurisdiction over this suit.

*Id.* at \*11.

6. Judge Clement rejected the argument that the case would “only involve the simple application of established federal securities laws.” *Id.* at \*7. Instead, she relied on alleged “violations of several federal securities laws” and the plaintiff’s attempt “to hold defendants directly liable and secondarily liable based on a ‘controlling person’ theory for certain acts and omissions.” *Id.*

7. Without any need to analyze how “established” the applicable law might be, Judge Clement concluded, “This federal securities litigation involves more than simple application of federal securities laws and will be complicated enough to warrant mandatory withdrawal under § 157(d).” *Id.* (citing *Rannd Res. v. Von Harten (In re Rannd Res.)*, 175 B.R. 393, 396 (D. Nev. 1994), for the proposition that withdrawal of the reference is mandatory where resolution requires more than simple application of federal securities laws, even though that court’s determination



was based solely on a review of the complaint's alleged violations of § 12(2) of the Securities Act of 1933, § 10 of the Securities Exchange Act of 1934, and Rule 10b-5).

8. This authority is on all fours here. In the Complaint, Plaintiffs allege violations of federal securities law (the Advisers Act), as well as the RICO statute. Deciding even the pending motion to dismiss will require far more than simple application of these laws. Nothing more is necessary to satisfy § 157(d). *Cf. In re IQ Telecomms., Inc.*, 70 B.R. 742, 745 (N.D. Ill. 1987) (“Nevertheless, Central’s second amended complaint easily meets [the § 157(d)] standard. Count 2 of the complaint consists of 76 pages and alleges that 29 individuals and entities violated RICO by engaging in a pattern of mail fraud, 18 U.S.C. § 1341, wire fraud, 18 U.S.C. § 1343, and 139 specific instances of bankruptcy fraud, 18 U.S.C. § 152.”); *S. Pac. Transp. Co. v. Voluntary Purchasing Gps.*, 252 B.R. 373, 382-84 (E.D. Tex. 2000) (holding that even the court’s “limited” role in approving a CERCLA settlement “necessarily involves the substantial and material consideration of CERCLA” and “will require the court to examine the unique facts of the case in light of those CERCLA provisions which create the causes of action at issue”). *Compare id.* at 382 (“It is well settled that CERCLA is a statute “‘rooted in the commerce clause’ and is precisely ‘the type of law . . . Congress had in mind when it enacted the statutory withdrawal provision [in § 157(d)].’” *with* the Advisers Act, 15 U.S.C. § 80b-1 (“Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 30 of the Public Utility Holding Company Act of 1935, and facts otherwise disclosed and ascertained, it is hereby found that investment advisers are of national concern, in that, among other things—(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and means and instrumentalities of interstate commerce;

(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on national securities exchanges and in interstate over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System; and (3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, national securities exchanges, and other securities markets, the national banking system and the national economy.”).

9. Although it is unnecessary to demonstrate that Plaintiffs’ Advisers Act allegations will require application of underdeveloped law, that is certainly the case. As the Third Circuit pointed out in 2013, there is considerable “confusion” in the case law stemming from the fact that federal law (the Advisers Act) provides “the duty and the standard to which investment advisers are to be held,” but “the cause of action is presented as springing from state law.” *Belmont v. MB Inv. Partners, Inc.*, 708 F.3d 470, 502 (3d Cir. 2013). The *Belmont* court further suggests the “confusion [that this situation] engenders may explain why there has been little development in either state or federal law on the applicable standards.” *Id.* (emphasis added). “Half a century later,” the *Belmont* court tells us, “courts still look primarily to *Capital Gains Research[, Inc.]*, 375 U.S. 180, 192 (1963),] for a description of an investment adviser’s fiduciary duties.” *Id.* at 503; *see also* Plaintiffs’ Response to Motion to Dismiss (addressing the Debtor’s erroneous argument that the Advisers Act creates no private right of action). This observation is bolstered by the necessity of relying extensively on SEC regulations and rulings in the Complaint. *See* Complaint ¶ 57 & n.5 (invoking Investment Advisers Act Release Nos. 3060 (July 28, 2010), and 2106 (Jan. 31, 2003), 66 (17 C.F.R. 275.206(4)-7), 69 (27 C.F.R. part 275 and Rule 10b5-1), 74 & n.6 (Advisers Act Release No. 4197 (Sept. 17, 2015))).

### **B. This Adversary Proceeding Is Not A Core Proceeding**

10. In previous briefing, the Debtor has suggested that this adversary proceeding should remain in bankruptcy court because it is a core proceeding under Title 11. Plaintiffs respectfully submit this is incorrect because the causes of action asserted in the Complaint do not “arise under,” or “arise in” Title 11 and therefore cannot be “core” proceedings.

11. To be clear, Plaintiffs are not seeking and hereby disclaim any relief that would literally unwind or reverse any settlement approved by the bankruptcy court. Neither do they attempt an end run around the provisions of any approval. They merely seek vindication of their rights via damages, and they respectfully submit that a proper jurisdictional analysis demonstrates their causes of action are not core proceedings within the bankruptcy court’s jurisdiction, for the reasons addressed below.

12. ***First***, “the ‘core proceeding’ analysis is properly applied not to the case as a whole, but as to each cause of action within a case.” *Legal Xtranet, Inc. v. AT&T Mgmt. Servs., L.P.* (*In re Legal Xtranet, Inc.*), 453 B.R. 699, 708–09 (Bankr. W.D. Tex. 2011); *Davis v. Life Inv’rs Ins. Co. of Am.*, 282 B.R. 186, 193 n. 4 (S.D. Miss.2002); *see also In re Exide Techs.*, 544 F.3d 196, 206 (3d Cir. 2008) (“A single cause of action may include both core and non-core claims. The mere fact that a non-core claim is filed with a core claim will not mean the second claim becomes ‘core.’”).

13. ***Second***, the Fifth Circuit has explained that “§ 157 equates core proceedings with the categories of ‘arising under’ and ‘arising in’ proceedings; therefore, a proceeding is core under section 157 if it invokes a substantive right provided by title 11[, it ‘arises under’ the Bankruptcy Code,] or if it is a proceeding that, by its nature, could arise only in the context of a bankruptcy case[, it ‘arises in’ a bankruptcy case].” *United States. Brass Corp. v. Travelers Ins. Grp., Inc.* (*In*

*re United States Brass Corp.*), 301 F.3d 296, 304 (5th Cir. 2002); *TXMS Real Estate Invs., Inc. v. Senior Care Ctrs., LLC (In re Senior Care Centers, LLC)*, 622 B.R. 680, 692–93 (Bankr. N.D. Tex. 2020); *Stern v. Marshall*, 564 U.S. 462, 476 (2011).

14. ***Third***, none of the Plaintiffs’ five causes of action—breach of fiduciary duty under the Advisers Act, breach of contract related to the HCLOF Company Agreement, negligence, RICO, and tortious interference—arise under title 11. That is, none of the substantive rights of recovery are created by federal bankruptcy law. And plainly so. Because “[a]rising under’ jurisdiction [only] involve[s] cause[s] of action created or determined by a statutory provision of title 11,” this is indisputably the case. *Wood v. Wood (In re Wood)*, 825 F.2d 90, 97 (5th Cir.1987) (noting that a proceeding does not “arise under” Title 11 if it does not invoke a substantive right, created by federal bankruptcy law, that could not exist outside of bankruptcy).

15. ***Fourth***, for similar reasons, none of Plaintiffs’ causes of action “arise in” a bankruptcy case. “Claims that ‘arise in’ a bankruptcy case are claims that by their nature, not their particular factual circumstance, could only arise in the context of a bankruptcy case.” *Legal Xtranet, Inc.*, 453 B.R. at 708–09 (emphasis added) (citing *Stoe v. Flaherty*, 436 F.3d 209, 216 (3d Cir. 2006)). The Debtor has previously argued that, because the factual circumstances giving rise to the causes of action included the HarbourVest Settlement, which was approved by the bankruptcy court, this somehow transforms Plaintiffs’ causes of action into core claims. But it is the nature of the causes of action that determines whether they are core, not their “particular factual circumstance.” *Id.*

16. To illustrate the point, in *Gupta v. Quincy Med. Ctr.*, 858 F.3d 657, 660 (1st Cir. 2017), the bankruptcy court had issued a sale order which approved an asset purchase agreement whereby the purchaser became obligated to make certain payments to employees. The purchaser



failed to make these payments, so the employees sued the purchaser in bankruptcy court, and the bankruptcy judge rendered a judgment in favor of the employees. On appeal, the district court concluded that the bankruptcy court lacked subject matter jurisdiction over the claims—claims plainly related to and existing only because of the approved sale order that gave rise to them. The First Circuit affirmed, explaining as follows:

[T]he fact that a matter would not have arisen had there not been a bankruptcy case does not ipso facto mean that the proceeding qualifies as an ‘arising in’ proceeding. Instead, the fundamental question is whether the proceeding by its nature, not its particular factual circumstance, could arise only in the context of a bankruptcy case. In other words, it is not enough that Appellants’ claims arose in the context of a bankruptcy case or even that those claims exist only because Debtors (Appellants’ former employer) declared bankruptcy; rather, “arising in” jurisdiction exists only if Appellants’ claims are the type of claims that can only exist in a bankruptcy case.

*Id.* at 664–65 (emphasis added).

17. Like the claims in *Gupta*, the Plaintiffs’ causes of action here arose in the context of a transaction approved in a bankruptcy case. But obviously, the causes of action are not “the type of claims that can only exist in a bankruptcy case.” And that ends the analysis. Because Plaintiffs’ causes of action do arise under the Bankruptcy Code, and because they are not claims that could only arise in the context of bankruptcy, this action is not a core proceeding.

### **C. The Bankruptcy Court Has Limited Post-Confirmation “Related-To” Jurisdiction**

18. Plaintiffs do not contest that this action is related to the bankruptcy case in some fashion. But “related to” jurisdiction is a term of art with differing requirements depending on the status of the bankruptcy case. In its current, post-confirmation status, Plaintiffs respectfully submit that the bankruptcy court lacks even “related to” jurisdiction over this action.

19. “Related to” jurisdiction is meant to avoid piecemeal adjudication and promote judicial economy by aiding in the efficient and expeditious resolution of all matters connected to

the debtor's estate. See *Feld v. Zale Corp. (In re Zale Corp.)*, 62 F.3d 746, 752 (5th Cir.1995). Importantly, proceedings merely "related to" a case under title 11 are considered "non-core" proceedings. *Stern*, 564 U.S. at 477; COLLIER ON BANKRUPTCY ¶ 3.02[2], p. 3–26, n.5 (16th ed. 2010) ("The terms 'non-core' and 'related' are synonymous.").

20. The jurisdictional standard for "related to" jurisdiction varies depending on whether the proceeding at issue was commenced pre- or post-confirmation. See *Beitel v. OCA, Inc. (In re OCA, Inc.)*, 551 F.3d 359, 367 at n.10 (5th Cir. 2008). And "after confirmation of a reorganization plan, a stricter post-confirmation standard applies." See *Bank of La. v. Craig's Stores of Tex., Inc. (In re Craig's Stores of Tex., Inc.)*, 266 F.3d 388, 390–91 (5th Cir.2001) (explaining this distinction).

21. Essentially, "after a debtor's reorganization plan has been confirmed, the debtor's estate, and thus bankruptcy jurisdiction, ceases to exist, other than for matters pertaining to the implementation or execution of the plan." *Id.* 266 F.3d at 390; *Faulkner v. Eagle View Capital Mgmt. (In re The Heritage Org., L.L.C.)*, 454 B.R. 353, 358 (Bankr. N.D. Tex. 2011).

22. Here, on February 22, 2021, the Bankruptcy Court entered the Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (II) Granting Related Relief [Bankruptcy Court Dkt. No. 1943]. The Complaint was filed on April 12, 2021. Thus, the proceeding was commenced post-confirmation.

23. There is no contending here that this action involves "matters pertaining to the implementation or execution of the plan," as required under *Craig's Stores*. Certainly Plaintiffs can think of no way that their action affects plan "implementation or execution." Thus, it follows that the bankruptcy court's related-to jurisdiction over this matter, if ever there were any, has now ended.

24. While the Debtor may argue that the bankruptcy court has “related to” jurisdiction as a result of a judgment potentially reducing available cash to pay creditors under the confirmed plan, this is precisely the argument that the Fifth Circuit rejected in *Craig’s Stores*. See *Coho Oil & Gas, Inc. v. Finley Res., Inc. (In re Coho Energy, Inc.)*, 309 B.R. 217, 220 (Bankr. N.D. Tex. 2004) (recognizing the rejection of this argument). As the Fifth Circuit explained: “while Craig’s insists that the status of its contract with the Bank will affect its distribution to creditors under the plan, the same could be said of any other post-confirmation contractual relations in which Craig’s is engaged.” 266 F.3d at 391. And that type of effect does not meet the threshold for post-confirmation related-to jurisdiction.

25. The Debtor may also contend that there is post-confirmation “related to” jurisdiction because the lawsuit will delay payments to creditors under the confirmed plan. But this is just a repackaged reduction-in-assets argument. The same would be true of any post-confirmation lawsuit against the Debtor and does not meet the “more exacting theory of post-confirmation bankruptcy jurisdiction” required by *Craig’s Stores*. See *Montana v. Goldin (In re Pegasus Gold Corp.)*, 394 F.3d 1189, 1194 (9th Cir. 2005) (stating “post-confirmation bankruptcy court jurisdiction is necessarily more limited than pre-confirmation jurisdiction, and ... the *Pacor* formulation [used to analyze related-to jurisdiction] may be somewhat overbroad in the post-confirmation context”); *Faulkner v. Kornman*, No. 10-301, 2015 Bankr. LEXIS 700 (Bankr. S.D. Tex. 2015) (stating “[t]he general rule is that post-confirmation subject matter jurisdiction is limited”); *Triad Guar. Ins. v. Am. Home Mortg. Inv. Corp (In re Am. Home Mortg. Holding)*, 477 B.R. 517, 529-30 (Bankr. D. Del. 2012) (stating “[a]fter confirmation... the test for ‘related to’ jurisdiction becomes more stringent if the plaintiff files its action after the confirmation date”)

(emphasis in original); *cf. Price v. Rochford*, 947 F.2d 829, 832 n.1 (7th Cir. 1991) (noting that “after a bankruptcy is over, it may well be more appropriate to bring suit in district court”).

26. Finally, the retention of jurisdiction in the confirmed plan does nothing to alter the forgoing analysis. *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009). A bankruptcy court may not “retain” jurisdiction it does not have. *Celotex Corp. v. Edwards*, 514 U.S. 300, 307 (1995). “[N]either the parties nor the bankruptcy court can create § 1334 jurisdiction by simply inserting a retention of jurisdiction provision in a plan of reorganization if jurisdiction otherwise is lacking.” *Valley Historic Ltd. P’ship. v. Bank of N.Y.*, 486 F.3d 831, 837 (4th Cir. 2007); *see also Zerand–Bernal Group, Inc. v. Cox*, 23 F.3d 159, 164 (7th Cir. 1994) (“[O]rders approving [a] bankruptcy sale [or] . . . plan of reorganization . . . [cannot] confer jurisdiction. A court cannot write its own jurisdictional ticket.”).

27. In sum, because 28 U.S.C. § 157(d) mandates withdrawal of the reference here, because this is not a “core” proceeding, and because the bankruptcy court lacks even “related to” jurisdiction at this stage, the Court should withdraw the reference as to this adversary proceeding and grant Plaintiffs all additional relief to which they may be entitled.



Dated: November , 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

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*Counsel for Highland Capital Management, L.P.*

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

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
CHARITABLE DAF FUND, L.P.,	§	
and CLO HOLDCO, LTD.,	§	
<i>directly and derivatively,</i>	§	Adversary Proceeding No.
	§	
Plaintiffs,	§	21-03067
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	
L.P., HIGHLAND HCF ADVISOR, LTD.,	§	
AND HIGHLAND CLO FUNDING, LTD.,	§	
Nominally,	§	
	§	
Defendants.	§	

**DEBTOR’S WITNESS AND EXHIBIT LIST WITH RESPECT  
TO EVIDENTIARY HEARING TO BE HELD ON NOVEMBER 23, 2021**

Highland Capital Management, L.P. (the “Debtor”) submits the following witness and exhibit list with respect to (i) *Plaintiffs’ Motion to Stay All Proceedings* [Docket No. 55]; and *Plaintiffs’ Amended Motion to Stay All Proceedings* [Docket No. 69], which the Court has set for hearing at 9:30 a.m. (Central Time) on November 23, 2021 (the “Hearing”) in the above-styled adversary proceeding (the “Adversary Proceeding”).

**A. Witnesses:**

1. Any witness identified by or called by any other party; and
2. Any witness necessary for rebuttal.

**B. Exhibits:**

Number	Exhibit	Offered	Admitted
1.	<i>Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief</i> , Case No. 19-34054-sgj, D.I. 1943 (Bankr. N.D. Tex. Feb. 22, 2021)		
2.	<i>Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)</i> , Case No. 19-34054-sgj, D.I. 1808 (Bankr. N.D. Tex. Jan. 22, 2021)		
3.	Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.’s <i>Notice of Appeal</i> , Case No. 19-34054-sgj, D.I. 1957 (Bankr. N.D. Tex. Mar. 1, 2021)		
4.	Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc.’s <i>Notice of Appeal</i> , Case No. 19-34054-sgj, D.I. 1966 (Bankr. N.D. Tex. Mar. 3, 2021)		
5.	James Dondero’s <i>Notice of Appeal</i> , Case No. 19-34054-sgj, D.I. 1970 (Bankr. N.D. Tex. Mar. 1, 2021)		
6.	The Dugaboy Investment Trust and Get Good Trust’s <i>Notice of Appeal</i> , Case No. 19-34054-sgj, D.I. 1972 (Bankr. N.D. Tex. Mar. 4, 2021)		
7.	<i>Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit</i> , Case No. 19-34054-sgj, D.I. 2034 (Bankr. N.D. Tex. Mar. 16, 2021)		

Number	Exhibit	Offered	Admitted
8.	<i>Order on Motions for Stay Pending Appeal</i> , Case No. 19-34054-sgj11, D.I. 2084 (Bankr. N.D. Tex. Mar. 22, 2021)		
9.	<i>Supplemental Order on Motions for Stay Pending Appeal</i> , Case No. 19-34054-sgj11, D.I. 2095 (Bankr. N.D. Tex. Mar. 24, 2021)		
10.	<i>Motion for Stay Pending Appeal</i> , Case No. 3:21-cv-00550-L, D.I. 5 (N.D. Tex. Apr. 6, 2021)		
11.	<i>Appellants' Motion for Stay Pending Appeal</i> , Case No. 3:21-cv-00538-N, D.I. 2 (N.D. Tex. Apr. 1, 2021)		
12.	<i>Funds' Petition For Direct Appeal Under 28 U.S.C. § 158(d)</i> , Case No. 21-90011 (5th Cir. April 14, 2021)		
13.	Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.'s <i>Petition For Direct Appeal Under 28 U.S.C. § 158(d)</i> , Case No. 21-90011 (5th Cir. Mar. 31, 2021)		
14.	The Dugaboy Investment Trust And Get Good Trust's <i>Petition For Direct Appeal Under 28 U.S.C. § 158(d)</i> , Case No. 21-90011 (5th Cir. April 15, 2021)		
15.	James Dondero's <i>Petition For Direct Appeal Under 28 U.S.C. § 158(d)</i> , Case No. 21-90011 (5th Cir. April 15, 2021)		
16.	<i>Order Granting Motion for Leave to Appeal Pursuant to 28 U.S.C. § 158(d)</i> , Case No. 21-90011 (5th Cir. May 4, 2021)		
17.	<i>Order Granting Motion for Leave to Appeal Pursuant to 28 U.S.C. § 158(d)</i> , Case No. 21-90011 (5th Cir. June 2, 2021)		
18.	<i>Appellants' Motion for Stay Pending Appeal</i> , Case No. 21-10449 (5th Cir. May 19, 2021)		
19.	<i>Order denying Appellants' Motion for Stay Pending Appeal</i> , Case No. 21-10449 (5th Cir. June 21, 2021)		
20.	<i>Order</i> , Case No. 3:21-cv-00550-L, D.I. 28 (N.D. Tex. June 23, 2021)		
21.	<i>Motion for an Order to Enforce the Order of Reference</i> [D.I. 22]		
22.	Motion to Dismiss Complaint [D.I. 26]		
23.	<i>Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.</i> , Case No. 19-34054-sgj, D.I. 2700 (Bankr. N.D. Tex. Aug. 11, 2021)		



Number	Exhibit	Offered	Admitted
24.	<i>Defendant Highland Capital Management, L.P.'s Memorandum of Law in Support of Motion for an Order to Enforce the Order of Reference [D.I. 23]</i>		
25.	<i>Appendix in Support of Highland Capital Management, L.P.'s Motion for an Order to Enforce the Order of Reference [D.I. 24]</i>		
26.	<i>Debtor's Reply in Support of Debtor's Motion to Enforce the Order of Reference [D.I. 45]</i>		
27.	<i>Appendix in Support of Debtor's Reply in Support of the Debtors' Motion to Enforce the Order of Reference [D.I. 43]</i>		
28.	<i>Order of Reference [D.I. 64]</i>		
29.	<i>Plaintiffs' Response to Defendant Highland Capital Management, L.P.'s Motion for an Order to Enforce the Order of Reference [D.I. 36]</i>		
30.	<i>Appendix in Support of Plaintiffs' Response to Highland Capital Management, L.P.'s Motion for an Order to Enforce the Order of Reference and Cross-Motion [D.I. 37]</i>		
31.	Any document entered or filed in the Reorganized Debtor's Bankruptcy Case, including any exhibits thereto		
32.	All exhibits necessary for impeachment and/or rebuttal purposes		
33.	All exhibits identified by or offered by any other party at the Hearing		

Dated: November 22, 2021.

**PACHULSKI STANG ZIEHL & JONES LLP**

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-and-

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*/s/ Melissa S. Hayward*

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*Counsel for Highland Capital Management, L.P.*

# **EXHIBIT 1**




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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

  
United States Bankruptcy Judge

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

\_\_\_\_\_)  
In re: ) Chapter 11  
          ) )  
HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup> ) Case No. 19-34054-sgj11  
          ) )  
Debtor. ) )  
\_\_\_\_\_)

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.





*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*

*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor’s Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an “asset monetization plan” because it involves the orderly wind-down of the Debtor’s estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor’s economic stakeholders. The Claimant Trustee is responsible



for this process, among other duties specified in the Plan's Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor's economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan's release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor's case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the

bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are

offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor’s Operational History.** The Debtor’s primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor’s current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was “run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits.” The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor’s Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.

The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has



continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended

proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty’s claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as “HarbourVest” invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest’s claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee’s relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from

Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).

13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was



much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also

included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

16. **Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing

were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrate Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

**17. Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court



questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor's 2008 return, which the Debtor believes arise from Get Good's equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor's alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the "Highland Advisors and Funds." See Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post's credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors' request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently

testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and

Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.’s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States’ (IRS) Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty’s Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty’s claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.



22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor’s Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC (“KCC”), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in

connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the “Plan Modifications”). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of

section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were



distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other

Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors

will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is

Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy



Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.

- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.

44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trust Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.



45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the

Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the

Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity

Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.



- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).

49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

Article IV.B of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).**

The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.



- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and

certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will

periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does

not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.



61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business

in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be

assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

**69. Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

**70. Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor’s release of the Debtor’s and Estate’s claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a “disguised” release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor’s conditional release of claims against employees, as identified in the Plan, and the Plan’s conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual



fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at

their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief

Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors’ objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber’s* denial of exculpation for certain parties other than a creditors’ committee and its members is that section 524(e) of the Bankruptcy Code “only releases the debtor, not co-liable third parties.” *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors’ committee and its members on the grounds that “11 U.S.C. § 1103(c), which lists the creditors’ committee’s powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee’s performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee.” *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber’s* rationale for permitted exculpation of creditors’ committees and their members (which was clearly policy-based and based on a creditors’ committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors’ committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not

part of the Debtor’s enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors’ committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber’s* policy of exculpating creditors’ committees and their members from “being sued by persons unhappy with the committee’s performance during the case or unhappy with the outcome of the case” is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that “costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization.” *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero’s pot plan does not get approved, that Mr. Dondero will “burn the place down.” The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.



75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is

colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to

as frivolous and a waste of the Bankruptcy Court’s time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor’s settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court’s order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero’s affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the “Dondero Post-Petition Litigation”).

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery’s credible testimony, that if Mr. Dondero’s plan proposal was not accepted, he would “burn down the place.” The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery’s testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result

in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor's insurance broker ("AON"), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor's assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected



Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the



Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.

sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the

representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.

**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts



include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will

be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the

Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the



Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Ferona Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date

must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,



discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);

*provided, however*, the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in

**Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.**

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or



any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,

including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the

Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.

**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under



applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.

**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the

avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior

Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable

immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have



any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that

the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

**Exhibit A**

**Fifth Amended Plan (as Modified)**

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

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

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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Counsel for the Debtor and Debtor-in-Possession

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set



forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

## **B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests

unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized

Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,



and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder

of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on



or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

## **B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

## **C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed

Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF  
 CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 3**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

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*000008*

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

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*000515*  
*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)



Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, <u>47</u> Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., <u>55</u> Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>26</u> and for <u>47</u> and for <u>55</u> , (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # <u>1</u> Exhibit A <u>1</u> Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Attachments: # <u>1</u> Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding, <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint), <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Sbaiti, Mazin)

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

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**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6

Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.



9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor’s rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:



- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;

(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer

of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and

no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

**C. The Reorganized Debtor**

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.



4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,

the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),



as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however,* that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.



**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

#### **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

#### **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on

the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing



will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee’s release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor’s Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

**E. Preservation of Rights of Action**

1. Maintenance of Causes of Action

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

2. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder’s respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;



- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700

Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to



evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: 

James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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ZAnnable@HaywardFirm.com

*Counsel for the Debtor and Debtor-in-Possession*

**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### Schedule of CLO Management Agreements and Related Contracts to Be Assumed

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.

19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.



36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

**EXHIBIT 2**

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

\_\_\_\_\_  
In re: )  
 ) Chapter 11  
 )  
HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup> ) Case No. 19-34054-sgj11  
 )  
 )  
Debtor. )  
\_\_\_\_\_ )

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

**PACHULSKI STANG ZIEHL & JONES LLP**

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ZAnnable@HaywardFirm.com:

Counsel for the Debtor and Debtor-in-Possession

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns;



(h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) "\$" or "dollars" means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "*Acis*" means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. "*Administrative Expense Claim*" means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. "*Administrative Expense Claims Bar Date*" means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. "*Administrative Expense Claims Objection Deadline*" means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. "*Affiliate*" of any Person means any Entity that, with respect to such Person, either (i) is an "affiliate" as defined in section 101(2) of the Bankruptcy Code, or (ii) is an "affiliate" as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term "control" (including, without limitation, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. "*Allowed*" means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the

Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however*, Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold

Claimant Trust Interests unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or

Reorganized Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,



and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any

damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“Okada”), (c) Grant Scott (“Scott”), (d) Hunter Covitz (“Covitz”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “Reorganized

Debtor Assets” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to 11 U.S.C. § 510 or order entered by the Bankruptcy Court.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## ARTICLE II.

### ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

#### A. Administrative Expense Claims

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized



Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

## **B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329, 330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee

Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, (b) payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF  
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the

Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

## **H. Classification and Treatment of Claims and Equity Interests**

### *1. Class 1 – Jefferies Secured Claim*

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until full and final payment of such Allowed Class 1 Claim is made as provided herein.
- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

### *2. Class 2 – Frontier Secured Claim*

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.



- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Under section 510 of the Bankruptcy Code, upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor’s limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor’s current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be

cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

*1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.*

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.



Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and

monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;
- (ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and
- (iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. *Compensation and Duties of Trustees.*

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust

Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are



investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

C. The Reorganized Debtor

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement, the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in

the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

#### **E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of

doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.



The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

**ARTICLE V.  
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a

contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4), as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

## **B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed

and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.  
PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity

Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

## **B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the

Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as “Unclaimed Property” under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall



revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

#### **H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

#### **I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

#### **J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

#### **K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any

damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.**  
**PROCEDURES FOR RESOLVING CONTINGENT,**  
**UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH**

**LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding



upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

**B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee) and any applicable parties in Section VII.A of this Plan, without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

**C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's

Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross

negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

#### **E. Preservation of Rights of Action**

##### *1. Maintenance of Causes of Action*

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

##### *2. Preservation of All Causes of Action Not Expressly Settled or Released*

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final

Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or**



arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder’s respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state,

Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

## **ARTICLE XI.** **RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or

expense reimbursement that may be requested by a purchaser thereof; *provided, however,* that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however,* that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such

orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;

- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

## **ARTICLE XII.** **MISCELLANEOUS PROVISIONS**

### **A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

### **B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

### **C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement

executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this



Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

#### **I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

#### **J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

#### **K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego

the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: 

James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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*Counsel for the Debtor and Debtor-in-Possession*

**EXHIBIT 3**



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Julian P. Vasek, Esq.  
Texas Bar No. 24070790  
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ATTORNEYS FOR HIGHLAND CAPITAL  
MANAGEMENT FUND ADVISORS, L.P. AND  
NEXPOINT ADVISORS, L.P.

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

\_\_\_\_\_)  
In re: ) Chapter 11  
)  
HIGHLAND CAPITAL MANAGEMENT, L.P. ) Case No. 19-34054 (SGJ11)  
)  
Debtor. )  
\_\_\_\_\_)

**NOTICE OF APPEAL**

COME NOW Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (the “Appellants”), creditors and parties-in-interest in the above styled and numbered bankruptcy case (the “Bankruptcy Case”) of Highland Capital Management, L.P. (the “Debtor”), and, pursuant to 28 U.S.C. § 158(a), hereby appeal to the United States District Court for the Northern District of Texas that certain *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order”) entered by the Bankruptcy Court on February 22, 2021 at docket no. 1943 in the Bankruptcy Case.

A copy of the Confirmation is attached hereto as Exhibit “A.”



The names of the parties to the Confirmation Order, and the contact information for their attorneys, is as follows:

1. Appellants:

Highland Capital Management Fund Advisors, L.P.  
NexPoint Advisors, L.P.

Attorneys:

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RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2021.

**MUNSCH HARDT KOPF & HARR, P.C.**

By: /s/ Davor Rukavina  
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**ATTORNEYS FOR HIGHLAND CAPITAL  
MANAGEMENT FUND ADVISORS, L.P. AND  
NEXPOINT ADVISORS, L.P.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 1st day of March, 2021, true and correct copies of this document were electronically served by the Court's ECF system on parties entitled to notice thereof, including on counsel for the Appellee.

By: /s/ Davor Rukavina  
Davor Rukavina, Esq.



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

**United States Bankruptcy Judge**

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

) Chapter 11

) Case No. 19-34054-sgj11

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.

*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*



*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor’s Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an “asset monetization plan” because it involves the orderly wind-down of the Debtor’s estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor’s economic stakeholders. The Claimant Trustee is responsible

for this process, among other duties specified in the Plan's Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor's economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan's release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor's case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the

bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are



offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor’s Operational History.** The Debtor’s primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor’s current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was “run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits.” The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor’s Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.

The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has

continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended

proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty’s claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as “HarbourVest” invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest’s claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee’s relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from

Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).



13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was

much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also

included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

16. **Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing

were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrage Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

**17. Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court



questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor’s 2008 return, which the Debtor believes arise from Get Good’s equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor’s alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the “Highland Advisors and Funds.” *See* Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post’s credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors’ request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently

testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and

Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.’s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States’ (IRS) Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty’s Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty’s claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.

22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor's Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC ("KCC"), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in



connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the “Plan Modifications”). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of

section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were

distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other

Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors



will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is

Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy

Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.

- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.



44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trust Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.

45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the

Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the

Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity

Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.



- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).

49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

Article IV.B of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).**

The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.

- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and



certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will

periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does

not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.

61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business

in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be



assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

69. **Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

70. **Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor’s release of the Debtor’s and Estate’s claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a “disguised” release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor’s conditional release of claims against employees, as identified in the Plan, and the Plan’s conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual

fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at

their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief

Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors' objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber's* denial of exculpation for certain parties other than a creditors' committee and its members is that section 524(e) of the Bankruptcy Code "only releases the debtor, not co-liable third parties." *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors' committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee." *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy-based and based on a creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not



part of the Debtor’s enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors’ committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber’s* policy of exculpating creditors’ committees and their members from “being sued by persons unhappy with the committee’s performance during the case or unhappy with the outcome of the case” is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that “costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization.” *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero’s pot plan does not get approved, that Mr. Dondero will “burn the place down.” The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.

75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is

colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to

as frivolous and a waste of the Bankruptcy Court’s time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor’s settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court’s order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero’s affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the “Dondero Post-Petition Litigation”).

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery’s credible testimony, that if Mr. Dondero’s plan proposal was not accepted, he would “burn down the place.” The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery’s testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result

in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor’s insurance broker (“AON”), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor’s assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected



Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the

Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.



sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the

representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.

**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts

include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will



be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the

Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the

Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Ferona Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date



must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,

discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);

*provided, however,* the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in



Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or

any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,

including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the

Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.



**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 4**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

*Vol. 1*  
*000001*  
*000006*  
*000008*

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

*Vol. 2*  
*000479*  
*000515*  
*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

Vol. 2				[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4	09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5	10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, <u>47</u> Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., <u>55</u> Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at <a href="https://us-courts.webex.com/meet/jerniga">https://us-courts.webex.com/meet/jerniga</a> for <u>26</u> and for <u>47</u> and for <u>55</u> , (Annable, Zachery)
000537	6	11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # <u>1</u> Exhibit A <u>1</u> Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7	11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Attachments: # <u>1</u> Exhibits 1-30) (Hayward, Melissa)
Vol 9	8	11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>26</u> Motion to dismiss adversary proceeding, <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint), <u>69</u> Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint))). (Sbaiti, Mazin)
001868				



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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

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applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.

**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the

avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior

Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable

immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have



any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that

the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

Exhibit A

**Fifth Amended Plan (as Modified)**

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

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

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**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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**PACHULSKI STANG ZIEHL & JONES LLP**

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Counsel for the Debtor and Debtor-in-Possession

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<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set



forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests

unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized

Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,



and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder

of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on



or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed

Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.**  
**CLASSIFICATION AND TREATMENT OF**  
**CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6



Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor’s rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.



The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;

(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer

of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and



no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

**C. The Reorganized Debtor**

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,

the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.



**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),

as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.



Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however,* that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trust, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

## **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

## **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on



the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing

will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

**E. Preservation of Rights of Action**

1. Maintenance of Causes of Action

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

2. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

**ARTICLE II.** Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).



**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700



Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to

evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: 

James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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*Counsel for the Debtor and Debtor-in-Possession*

**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### Schedule of CLO Management Agreements and Related Contracts to Be Assumed

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.



19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

**EXHIBIT 4**

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*Counsel for Highland Income Fund, NexPoint  
Strategic Opportunities Fund, Highland Global  
Allocation Fund, and NexPoint Capital, Inc.*

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

	)		
In re:	)	Chapter 11	
	)		
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	Case No. 19-34054 (SGJ11)	
	)		
Debtor.	)	(Jointly Administered)	
	)		
	)		

**NOTICE OF APPEAL**

**Part 1: Identify the appellants**

1. Names of appellants:

Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc.

2. Position of appellants in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding:

\_\_\_ Plaintiff  
\_\_\_ Defendant  
\_\_\_ Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding:

\_\_\_ Debtor  
\_\_\_ Creditor  
\_\_\_ Trustee  
 Other (describe) Interested parties





**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from:

The Bankruptcy Court’s Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (II) Granting Related Relief [Dkt. No. 1943]

2. State the date on which the judgment, order, or decree was entered: February 22, 2021

**Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys:

<p><b>1. Debtor-Appellee</b>                  PACHULSKI STANG ZIEHL &amp; JONES LLP                  Jeffrey N. Pomerantz                  Ira D. Kharasch                  jpomerantz@pszjlaw.com                  ikharasch@pszjlaw.com                  10100 Santa Monica Blvd, 13th Floor                  Los Angeles, CA 90067</p> <p>John A. Morris                  Gregory V. Demo                  Hayley R. Winograd                  jmorris@pszjlaw.com                  gdemo@pszjlaw.com                  hwinograd@pszjlaw.com                  780 Third Avenue, 34th Floor                  New York, NY 10017-2024</p> <p>HAYWARD &amp; ASSOCIATES PLLC                  Melissa S. Hayward                  Zachery Z. Annable                  10501 N. Central Expressway, Suite 106                  Dallas, TX 75231                  MHayward@HaywardFirm.com                  zannable@haywardfirm.com</p> <p><i>Counsel for Highland Capital Management, L.P.</i></p>	<p><b>2. Creditor-Appellant</b>                  K&amp;L GATES LLP                  Artoush Varshosaz (TX Bar No. 24066234)                  1717 Main Street, Suite 2800                  Dallas, TX 75201                  Tel: (214) 939-5659                  artoush.varshosaz@klgates.com</p> <p>A. Lee Hogewood, III (<i>pro hac vice</i>)                  4350 Lassiter at North Hills Ave., Suite 300                  Raleigh, NC 27609                  Tel: (919) 743-7306                  Lee.hogewood@klgates.com</p> <p><i>Counsel for Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc.</i></p>
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**Part 4: Optional election to have appeal heard by District Court**

N/A

**Part 5: Sign below**

Dated: March 3, 2021

**K&L GATES LLP**

/s/ A. Lee Hogewood, III

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*Counsel for Highland Income Fund, NexPoint  
Strategic Opportunities Fund, Highland Global  
Allocation Fund, and NexPoint Capital, Inc.*

## **EXHIBIT 5**

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John Y. Bonds, III – State Bar ID 02589100  
Clay M. Taylor – State Bar ID 24033261  
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**ATTORNEYS FOR JAMES DONDERO**

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

In re: § Case No. 19-34054-SGJ-11  
§  
HIGHLAND CAPITAL MANAGEMENT, LP, §  
§ Chapter 11  
§  
Debtor. §

---

**NOTICE OF APPEAL**

James Dondero (the “Appellant”), creditor, indirect equity holder, and party-in-interest in the above styled and numbered bankruptcy case (the “Bankruptcy Case”) of Highland Capital Management, L.P. (the “Debtor”), and pursuant to 28 U.S.C. § 158(a), hereby appeals to the United States District Court for the Northern District of Texas that certain *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order”) entered by the Bankruptcy Court on February 22, 2021 at docket no. 1943 in the Bankruptcy Case.<sup>1</sup>

<sup>1</sup> Appellant anticipates that the Appeal will actually be certified for a direct appeal to the 5<sup>th</sup> Circuit by agreement of all Appellants and Appellee based on the parties’ prior agreements, but hereby directs this appeal to the District Court as that direct appeal to the Circuit Court is not yet procedurally ripe.



A copy of the Confirmation Order is attached hereto as Exhibit "A."

The names of the parties to the Confirmation Order, and the contact information for their attorneys, is as follows:

1. Appellant:<sup>2</sup>

James Dondero

Attorneys:

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John Y. Bonds  
Clay M. Taylor  
Bryan C. Assink  
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420 Throckmorton Street, Ste. 1000  
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<sup>2</sup> Two other Notices of Appeal have already been filed by other Appellants to this Order and are found at Docket Nos. 1957 and 1966 which were filed by Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. on the one hand; and Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc. on the other hand, respectively. It is possible that other appellants may additionally file separate notices of appeal.



2. Appellee:

Highland Capital Management, L.P.

Attorneys:

Jeffrey N. Pomerantz  
Ira D. Kharasch  
John A. Morris  
Gregory V. Demo  
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[hwinograd@pszjlaw.com](mailto:hwinograd@pszjlaw.com)

Signed: March 4, 2021.

BONDS ELLIS EPPICH SCHAFFER JONES LLP

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ATTORNEYS FOR JAMES DONDERO

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this on March 4, 2021, true and correct copies of this document were electronically served by the Court's ECF system on parties entitled to notice thereof, including on counsel for the Appellee.

By: /s/ Clay M. Taylor  
Clay M. Taylor



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

United States Bankruptcy Judge

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

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

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.

*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*

*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.



**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1.       **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2.       **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor’s Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an “asset monetization plan” because it involves the orderly wind-down of the Debtor’s estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor’s economic stakeholders. The Claimant Trustee is responsible

for this process, among other duties specified in the Plan’s Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor’s economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan’s release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor’s case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the

bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are

offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor’s Operational History.** The Debtor’s primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor’s current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was “run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits.” The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor’s Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.

The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has



continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended

proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty’s claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as “HarbourVest” invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest’s claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee’s relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from

Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).

13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was

much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also



included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

16. **Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing

were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrate Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

**17. Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court

questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor’s 2008 return, which the Debtor believes arise from Get Good’s equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor’s alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the “Highland Advisors and Funds.” *See* Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post’s credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors’ request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently



testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and

Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.’s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States’ (IRS) Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty’s Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty’s claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.

22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor's Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC ("KCC"), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in

connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the “Plan Modifications”). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of



section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were

distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other

Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors

will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is

Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy



Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.

- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.

44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trust Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.

45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the



Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the

Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity

Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.

- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).

49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

Article IV.B of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).**

The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.



52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.

- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and

certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will

periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does



not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.

61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business

in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be

assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

**69. Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

**70. Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See *Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith* [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor’s release of the Debtor’s and Estate’s claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a “disguised” release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor’s conditional release of claims against employees, as identified in the Plan, and the Plan’s conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual



fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at

their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief

Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors' objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber's* denial of exculpation for certain parties other than a creditors' committee and its members is that section 524(e) of the Bankruptcy Code "only releases the debtor, not co-liable third parties." *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors' committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee." *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy-based and based on a creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not

part of the Debtor’s enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors’ committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber’s* policy of exculpating creditors’ committees and their members from “being sued by persons unhappy with the committee’s performance during the case or unhappy with the outcome of the case” is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that “costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization.” *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero’s pot plan does not get approved, that Mr. Dondero will “burn the place down.” The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.

75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is



colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to

as frivolous and a waste of the Bankruptcy Court’s time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor’s settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court’s order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero’s affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the “Dondero Post-Petition Litigation”).

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery’s credible testimony, that if Mr. Dondero’s plan proposal was not accepted, he would “burn down the place.” The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery’s testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result

in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor's insurance broker ("AON"), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor's assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected

Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.



Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the

Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.

sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the

representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.



**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts

include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will

be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the

Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the



Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Ferona Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date

must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,

discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);



*provided, however,* the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in

Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or

any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,



including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the

Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.

**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under

applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.



**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the

avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior

Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable

immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have

any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that



the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

**Exhibit A**

**Fifth Amended Plan (as Modified)**

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

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

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**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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Counsel for the Debtor and Debtor-in-Possession

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<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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## DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

### **ARTICLE I.** **RULES OF INTERPRETATION, COMPUTATION OF TIME,** **GOVERNING LAW AND DEFINED TERMS**

#### **A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set

forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy



Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests

unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.

42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized



Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,

and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.



102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder

of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on

or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed



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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 5**

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
  
Debtor.

CHARITABLE DAF FUND, L.P. AND CLO  
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY

Plaintiffs,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING LTD., NOMINALLY

Defendant.

§ Chapter 11  
§  
§ Case No. 19-34054-sgj11  
§  
§  
§

§ Adversary Proceeding No.  
§  
§ 21-03067-sgj11  
§  
§  
§

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
Vol 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)



6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

002175

002309

002322

Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) <u>2490</u> Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

TRANSCRIPT

Vol. 12

002705

78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

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Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.**  
**CLASSIFICATION AND TREATMENT OF**  
**CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote



**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6

Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.



- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor’s rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

## 2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;



(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer

of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and

no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

**C. The Reorganized Debtor**

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,



the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),

as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.



**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however,* that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.



**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trust, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

**B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

**C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on

the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing

will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation



Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

#### **E. Preservation of Rights of Action**

##### **1. Maintenance of Causes of Action**

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

##### **2. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder’s respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to nay taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;



- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700

Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to

evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*



Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: 

James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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*Counsel for the Debtor and Debtor-in-Possession*

**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### **Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.

19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.



51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

**EXHIBIT 6**

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Attorneys for The Dugaboy Investment Trust and Get Good Trust

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

IN RE: \* Chapter 11  
\*  
\* Case No. 19-34054sgj11  
HIGHLAND CAPITAL MANAGEMENT, L.P. \*  
\*  
Debtor \*

**NOTICE OF APPEAL AND STATEMENT OF ELECTION**

**Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): \_\_\_\_

The Dugaboy Investment Trust and Get Good Trust

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

- For appeals in an adversary proceeding.
- Plaintiff
  - Defendant
  - Other (describe)

- For appeals in a bankruptcy case and not in an adversary proceeding.
- Debtor
  - Creditor
  - Trustee
  - Other (describe)

**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief [Dkt. # 1943]

{00375211-1}



2. State the date on which the judgment, order, or decree was entered: February 22, 2021

**Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. **Party/Appellee:** Debtor: Highland Capital Management, L.P.

Attorney:

PACHULSKI STANG ZIEHL & JONES LLP  
Jeffery N. Pomerantz  
Ira D. Kharasch  
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And

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2. **Party/Appellants:** Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc.

Attorney:

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Artoush Varshosaz  
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And

{00375211-1}

A. Lee Hogewood, III  
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3. ***Party/Appellants:*** Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.

Attorney:

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4. ***Party/Appellants:*** The Dugaboy Investment Trust and Get Good Trust

Attorney:

HELLER, DRAPER & HORN, L.L.C.  
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650 Poydras Street, Suite 2500  
New Orleans, LA 70130  
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5. ***Party/Appellants:*** James Dondero

Attorney:

BONDS ELLIS EPPICH SCHAFER JONES LLP  
D. Michael Lynn  
John Y. Bonds  
Clay M. Taylor  
Bryan C. Assink  
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{00375211-1}



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**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

**Not applicable.**

March 4, 2021

Respectfully submitted,

*/s/Douglas S. Draper.*  
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*Attorneys for The Dugaboy Investment Trust  
and Get Good Trust*

**EXHIBIT 7**




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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed March 16, 2021

  
United States Bankruptcy Judge

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

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	Case No. 19-34054 (SGJ11)
Debtor.	)	

**ORDER CERTIFYING APPEALS OF THE CONFIRMATION ORDER  
FOR DIRECT APPEAL TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

CAME ON FOR CONSIDERATION the *Joint Motion for Certification of Appeals of Confirmation Order for Direct Appeal to the Fifth Circuit* (the "Motion"), filed jointly by Highland Capital Management, L.P., Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund, James Dondero, Get Good Trust, and The Dugaboy Investment Trust (collectively, the "Parties").



By the Motion, the Parties jointly request a certification for a direct appeal to the Fifth Circuit of the following appeals (collectively, the “Appeals”) of the Court’s *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [docket no. 1943] (the “Confirmation Order”):

- (i) the notice of appeal filed by Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. on March 1, 2021 at docket no. 1957;
- (ii) the notice of appeal filed by Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., and NexPoint Strategic Opportunities Fund on March 3, 2021 at docket no. 1966;
- (iii) the notice of appeal filed by James Dondero on March 4, 2021 at docket no. 1970;  
and
- (iv) the notice of appeal filed by Get Good Trust and The Dugaboy Investment Trust on March 4, 2021 at docket no. 1972.

Having considered the Motion, concluding that the Court has core jurisdiction over the Motion, finding that no further notice or hearing on the Motion is required as all parties affected thereby are the Parties to the Motion, and, based on the Parties joint certification and request as provided for in 28 U.S.C. § 158(d)(2)(B), and based also on the Court’s agreement with the factual predicates underlying the Parties’ certification and request, it is hereby:

ORDERED that the Appeals of the Confirmation Order are certified for direct appeal to the Fifth Circuit because a direct appeal may materially advance the progress of the case or proceeding in which the appeal is taken, within the meaning and operation of 28 U.S.C. § 158(d)(2)(A)(iii).

**### END OF ORDER ###**

**EXHIBIT 8**





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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed March 22, 2021

  
United States Bankruptcy Judge

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

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-SGJ-11
L.P., <sup>1</sup>	§	
	§	
Debtor.	§	
	§	

**ORDER ON MOTIONS FOR STAY PENDING APPEAL**

This matter having come before the Court on the *Emergency Motion of the Advisors for Stay Pending Appeal of the Confirmation Order, and Brief in Support Thereof* [Docket No. 1955] (the “Advisors Motion”); *Motion for Stay Pending Appeal of the Court’s Order Confirming the Debtor’s Fifth Amended Plan* [Docket No. 1967] (the “Funds Motion”); *Joinder to Motions for Stay Pending Appeal of the Court’s Order Confirming the Debtor’s Fifth Amended Plan* [Docket No. 1971] (the “Trusts Motion”); and *Joinder in Motion for Stay Pending Appeal and Additional Grounds for the*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



*Issuance of a Stay Pending Appeal* [Docket No. 1973] (the “Dondero Motion,” and together with the Advisors Motion, the Funds Motion, and the Trusts Motion, the (“Motions”), and this Court having considered (i) the Motions; (ii) *Debtor’s Omnibus Response to Motions for Stay Pending Appeal of the Confirmation Order* [Docket No. 2022] (the “Debtor’s Response”);<sup>2</sup> (iii) *Omnibus Objection of the Official Committee of Unsecured Creditors’ Objection to Motions for Stay Pending Appeal of the Confirmation Order and Joinder in Debtor’s Omnibus Objection to Motions for Stay* [Docket No. 2023] (the “UCC Response,” and together with the Motions and the Debtor’s Response, the “Briefs”); (iv) the evidence admitted into evidence during the hearing held on March 19, 2021 (the “Hearing”); and (v) the arguments made during the Hearing; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Motions and opportunity for a hearing on the Motions were appropriate and that no other notice need be provided; and upon all of the proceedings had before this Court, the legal and factual bases set forth in the Briefs, and the evidence submitted at the Hearing; and after due deliberation and sufficient cause appearing therefor, and for the reasons set forth in the record on the Motions, it is hereby **ORDERED** that:

1. The Motions are **DENIED**.
2. The Court will hold a hearing on March 24, 2021, at 9:30 a.m. Central Time (the “Bond Hearing”) on whether the Appellants are entitled to a stay pending appeal of the Confirmation Order, as a matter of right, under applicable law upon the posting of an adequate monetary bond. If the Court determines that applicable law provides Appellants with a stay

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<sup>2</sup> Capitalized terms used but not herein defined shall have the meanings ascribed to such terms in the Debtor’s Response.

pending appeal of the Confirmation Order as a matter of right upon the posting of an adequate monetary bond, then this Court will hear evidence at the Bond Hearing regarding the appropriate amount of such bond.

3. Parties may submit briefs on the question of whether Appellants are entitled to a stay pending appeal of the Confirmation Order as a matter of right upon the posting of an adequate monetary bond, and if so, the appropriate amount of such bond, by no later than 3:00 p.m. Central Time on March 23, 2021.

4. The Effective Date of the Plan will not occur prior to March 31, 2021.

5. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

### END OF ORDER ###

**EXHIBIT 9**



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed March 24, 2021

  
United States Bankruptcy Judge

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

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	Case No. 19-34054-SGJ-11
L.P., <sup>1</sup>	§	
	§	
Debtor.	§	
	§	

**SUPPLEMENTAL ORDER ON MOTIONS FOR STAY PENDING APPEAL**

This matter having come before the Court on the *Emergency Motion of the Advisors for Stay Pending Appeal of the Confirmation Order, and Brief in Support Thereof* [Docket No. 1955] (the “Advisors Motion”); *Motion for Stay Pending Appeal of the Court’s Order Confirming the Debtor’s Fifth Amended Plan* [Docket No. 1967] (the “Funds Motion”); *Joinder to Motions for Stay Pending Appeal of the Court’s Order Confirming the Debtor’s Fifth Amended Plan* [Docket No. 1971] (the “Trusts Motion”); and *Joinder in Motion for Stay Pending Appeal and Additional Grounds for the*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.





*Issuance of a Stay Pending Appeal* [Docket No. 1973] (the “Dondero Motion,” and together with the Advisors Motion, the Funds Motion, and the Trusts Motion, the (“Motions”), and this Court having considered (i) this Court’s *Order on Motions for Stay Pending Appeal* [Docket No. 2084] (the “Prior Order”); (ii) the Motions and the letter of Davor Rukavina to this Court dated March 23, 2021 regarding *In re Highland Capital Management, L.P.*, 19-34054-SGJ-11: Motions/Joinders for Stay Pending Appeal of Confirmation Order [Docket No. 2086] (the “Letter”); (iii) *Debtor’s Omnibus Response to Motions for Stay Pending Appeal of the Confirmation Order* [Docket No. 2022] (the “Debtor’s Response”) and the *Debtor’s Supplemental Brief in Opposition to Motions for Stay Pending Appeal of the Confirmation Order* [Docket No. 2087] (the “Debtor’s Supplemental Brief”);<sup>2</sup> (iv) *Omnibus Objection of the Official Committee of Unsecured Creditors’ Objection to Motions for Stay Pending Appeal of the Confirmation Order and Joinder in Debtor’s Omnibus Objection to Motions for Stay* [Docket No. 2023] (the “UCC’s Response”) and the *Supplemental Statement of the Official Committee of Unsecured Creditors’ Regarding Motions for Stay Pending Appeal of the Confirmation Order* [Docket No. 2089] (the “UCC’s Statement,” and together with the Motions, the Debtor’s Response, the Debtor’s Supplemental Brief and the UCC’s Response, the “Briefs”);<sup>3</sup> (v) the evidence admitted into evidence during the hearing held on March 19, 2021 (the “March 19 Hearing”); and (vi) the arguments made during the March 19 Hearing; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Motions and opportunity for a hearing

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<sup>2</sup> Capitalized terms used but not herein defined shall have the meanings ascribed to such terms in the Debtor’s Response.

<sup>3</sup> The Debtor’s Supplemental Brief and the UCC’s Statement together are the “Supplemental Briefs.”

on the Motions were appropriate and that no other notice need be provided; and upon all of the proceedings had before this Court, the legal and factual bases set forth in the Briefs, and the evidence submitted at the March 19 Hearing; and after due deliberation and sufficient cause appearing therefor, and for the reasons set forth in the record on the Motions, it is hereby **FOUND** and **ORDERED** that:

1. At the March 19 Hearing, the Court heard the Motions for a discretionary stay pending appeal, pursuant to Fed.R.Bankr.P. 8007. The Court determined that the Appellants (which only made oral argument and presented only some documentary evidence) did not meet their burden of proof on the four-factor test articulated in case law to obtain a discretionary stay pending appeal. The Prior Order memorialized the Court's ruling denying the requested stay pending appeal. Since there was some discussion raised by certain of the Appellants and the Debtor regarding an appropriate amount for a monetary bond that Appellants might be required to post in connection with a stay pending appeal, the Court raised the question whether applicable law required the Court to grant a stay pending appeal (i.e., a mandatory stay) if Appellants posted a sufficient bond. The Court considered Fed.R.Bankr.P. 7062 (incorporating Fed.R.Civ.P. 62). Fed.R.Bankr.P. 7062 does not automatically apply in contested matters, see Fed.R.Bankr.P. 9014, but rather applies in adversary proceedings. However, a bankruptcy court might conceivably apply it in a contested matter. The Court gave the parties an opportunity to brief this issue and gave the Appellants the opportunity to put on evidence as to what would be an appropriate bond amount, if Fed.R.Bankr.P. 7062 should be applied. In the Prior Order, the Court set a briefing deadline of March 23, 2021 at 3:00 p.m. and an evidentiary hearing for March 24, 2021 at 9:30 a.m. (the "Supplemental Hearing"). Shortly before the briefing deadline, Appellants informed the Court by the Letter that they did not believe the Court could issue a mandatory stay pending appeal of the

Confirmation Order, and, rather, the Court is limited to issuing a discretionary stay pursuant to Fed.R.Bankr.P. 8007. Appellants announced that they did not intend to proceed at the Supplemental Hearing and asked the Court to cancel it.

2. Meanwhile, the Debtors and UCC submitted their Supplemental Briefs arguing that the Court, indeed, does not have the ability to issue a mandatory stay pending appeal, pursuant to Fed.R.Bankr.P. 7062 and Fed.R.Civ.P. 62, upon the posting of a bond, in the context of a confirmation order. Rather, Fed.R.Bankr.P. 7062 is available in connection with monetary judgments only. Only Fed.R.Bankr.P. 8007 (and the traditional four-factor test articulated in case law) applies with regard to the potential stay of a confirmation order. The Court finds this Supplemental Briefs to be compelling.

3. Based on the arguments presented, and the Letter, the Court determines that Fed.R.Bankr.P. 7062 and Fed.R.Bankr.P. 62 are not applicable in connection with the appeal of the Confirmation Order.

4. Accordingly, and as requested by Appellants, the Supplemental Hearing on the bond issue is cancelled.

5. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

### END OF ORDER ###

**EXHIBIT 10**

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

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Bankruptcy Case No. 19-34054
	§	
Debtor.	§	
<hr/>		
	§	
THE DUGABOY INVESTMENT TRUST AND GET GOOD TRUST	§	
Appellants,	§	
	§	
v.	§	Civ. Act. No. 3:21-cv-00550-L
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Appellee.	§	
	§	

**MOTION FOR STAY PENDING APPEAL**

TO THE HONORABLE JUDGE SAM A. LINDSAY, U.S. DISTRICT JUDGE:

NOW COMES the Appellants, The Dugaboy Investment Trust and Get Good Trust (the “Movants”), in the above styled and numbered appeal from the bankruptcy case (the “Bankruptcy Case”) captioned, *In re: Highland Capital Management, L.P.*, case number 19-34054, as filed by Highland Capital Management, L.P. (the “Debtor”), and hereby file this *Motion for Stay Pending Appeal* (the “Motion”). In support of the Motion, the Movants, respectfully aver as follows:

Pursuant to this Motion and Fed. R. Bankr. P. 8007, the Movants request that the Court issue a stay of that certain *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Dkt.





No. 1943] (the “Confirmation Order”<sup>1</sup>), pending the outcome of this appeal through the Fifth Circuit. Contemporaneously herewith, the Movants are filing their *Brief in Support of Motion for Stay Pending Appeal* (the “Brief”). Such a stay is justified for the reasons set forth in the Brief, all of which is incorporated herein by reference.

Notices of Appeal from the Confirmation Order have been filed by the Movants (DKT 1972 and 2014), Highland Capital Management Fund Advisors L.P. and NexPoint Advisors L.P (“Advisors”) (DKT 1957), Highland Income Fund, NexPoint Strategic Opportunities Fund Highland Global Fund and NexPoint Capital, Inc (“Funds”) (DKT 1966) and James Dondero (DKT 1970). The appeal of the Confirmation Order filed by Funds and Advisors has been allotted to Judge David C. Godbey<sup>2</sup>. The appeal of the Confirmation Order filed by Movants and Dondero have been allotted to this Court<sup>3</sup>.

Motions for Stay of the Confirmation Order have been filed by Funds and Advisors (DKTS 1967 and 1955) Movants and Dondero filed joinders to the Motions to Stay the Confirmation Order (DKTS 1971 and 1973).

The Bankruptcy Court conducted a hearing on March 19, 2021; and the Bankruptcy Court denied the Motions for Stay Pending Appeal by order entered on March 23, 2021 (DKT 2084 and 2095).

A Motion for Stay Pending Appeal has been filed by Advisors in this Court. (See USDC-NDTX Case No. 3:21-cv-00538-N).

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<sup>1</sup> Appx. 1.

<sup>2</sup> Highland Capital Management Fund Advisors L.P. and NexPoint Advisors L.P (“Advisors”) – USDC NDTX Case No. 3:21-cv-00538-N

Highland Income Fund, NexPoint Strategic Opportunities Fund Highland Global Fund and NexPoint Capital, Inc (“Funds”) – USDC NDTX Case No. 3:21-cv-00539-N.

<sup>3</sup> James Dondero USDC NDTX Case No. 3:21-cv-00546-L.

The Debtor, Funds Advisors, Movants and Dondero request for a direct appeal to the 5<sup>th</sup> Circuit of the Confirmation Order was granted by *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit* (DKT 2034). For the reasons set forth in the Brief filed by the Movant in Support of this Motion, Movant requests that this Court issue a Stay Pending Appeal of the Confirmation Order.

WHEREFORE, PREMISES CONSIDERED, the Movants request that the Court enter an Order:

1. Staying the effectiveness of the Confirmation Order pending the conclusion of the appeal thereof through the Fifth Circuit; and
2. Granting such other relief as is just and proper.

RESPECTFULLY SUBMITTED this the 6<sup>th</sup> day of April 2021.

*/s/ Douglas S. Draper*  
\_\_\_\_\_  
Douglas S. Draper, (*pro hac vice admittance requested*)  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 6<sup>th</sup> day of April, 2021, true and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via email, and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via first class U.S. mail, postage prepaid:

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Zachery Z. Annable  
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Dallas, TX 75231  
Email: zannable@haywardfirm.com

/s/ Douglas S. Draper  
Douglas S. Draper

**EXHIBIT 11**

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

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Bankruptcy Case No. 19-34054
	§	
Debtor.	§	
<hr/>		
HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P. and NEXPOINT ADVISORS, L.P.,	§	
	§	
Appellants,	§	
	§	
v.	§	Civ. Act. No. 3:21-cv-00538-N
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Appellee.	§	

**APPELLANTS’ MOTION FOR STAY PENDING APPEAL**

TO THE HONORABLE DAVID C. GODBEY, U.S. DISTRICT JUDGE:

COME NOW Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (the “Movants” or “Appellants”), creditors and parties-in-interest in the above styled and numbered bankruptcy case (the “Bankruptcy Case”) of Highland Capital Management, L.P. (the “Debtor”), and file this their *Motion for Stay Pending Appeal* (the “Motion”), respectfully stating as follows:

Contemporaneously herewith, the Appellants are filing their *Brief in Support of Appellants’ Motion for Stay Pending Appeal* (the “Brief”) and their *Appendix in Support of Appellants’ Motion for Stay Pending Appeal* (the “Appendix”). Pursuant to this Motion and Fed. R. Bankr. P. 8007, the Appellants request that the Court issue a stay of that certain *Order (i)*





*Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Bankr. Dkt. No. 1943] (the “Confirmation Order”<sup>1</sup>), pending the outcome of this appeal through the Fifth Circuit. Such a stay is justified for the reasons set forth in the Brief, based on the evidence set forth in the Appendix, all of which is incorporated herein by reference.

Pursuant to Fed. R. Bankr. P. 8007(b)(2)(B), the Appellants state that (A) this Motion was originally made in the Bankruptcy Court on February 28, 2021 [Bankr. Dkt. No. 1955]; (B) the Bankruptcy Court conducted a hearing on March 19, 2021; and (C) the Bankruptcy Court denied the Motion for the reasons given in the transcript of said hearing that is included in the Appendix.<sup>2</sup>

WHEREFORE, PREMISES CONSIDERED, the Appellants request that the Court enter an Order:

1. Staying the effectiveness of the Confirmation Order pending the conclusion of the appeal thereof through the Fifth Circuit; and
2. Granting such other relief as is just and proper.

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<sup>1</sup> Appx. 1.

<sup>2</sup> Appx. 1199 (beginning on line 13).

RESPECTFULLY SUBMITTED this the 1st day of April, 2021.

**MUNSCH HARDT KOPF & HARR, P.C.**

By: /s/ Davor Rukavina  
Davor Rukavina, Esq.  
Texas Bar No. 24030781  
Julian P. Vasek, Esq.  
Texas Bar No. 24070790  
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E-mail: drukavina@munsch.com

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

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that, pursuant to Fed. R. Bankr. P. 8007, this Motion was originally filed in the Bankruptcy Court. The Debtor/Appellee opposed the relief requested herein in the Bankruptcy Court, and, after conference regarding the same, the Debtor/Appellee will continue to oppose such relief in this Court.

/s/ Davor Rukavina  
Davor Rukavina

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 1st day of April, 2021, true and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via email, and on April 2, 2021, true and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via first class U.S. mail, postage prepaid:

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**EXHIBIT 12**

No. \_\_\_\_\_

IN THE  
**United States Court of Appeals for the Fifth Circuit**

In Re: HIGHLAND CAPITAL MANAGEMENT, L.P.

Proposed Appeal of Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund and NexPoint Capital, Inc.

*On petition for direct appeal from the United States Bankruptcy Court for the Northern District of Texas at No. 19-34054; Appeal pending in the United States District Court for the Northern District of Texas at No. 3:21-cv-00539-N*

**PETITION FOR DIRECT APPEAL UNDER 28 U.S.C. § 158(d)**

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## INTRODUCTION

Section 158(d)(2) allows a direct appeal from a bankruptcy court to the court of appeals if at least one of four conditions is met. *See* 28 U.S.C. § 158(d). The bankruptcy court order at issue here, which confirmed a complex plan and included a number of contested provisions, independently meets three of Section 158(d)(2)'s provisions.

*First*, as the Bankruptcy Court held when it certified its confirmation order for direct appeal, a direct appeal “may materially advance the progress of the case” because (1) the interests at stake guarantee that the case will ultimately be appealed to this Court, (2) the parties have significant interests in obtaining this Court’s prompt review so that they can order their affairs accordingly in light of certain future actions Highland Capital Management, L.P. (the “Debtor”), proposes to take and (3) the parties will collectively spend hundreds of thousands of dollars in district-court proceedings that will almost certainly be unnecessary in light of this Court’s ultimate review. *See* 28 U.S.C. § 158(d)(2)(A)(iii).

*Second*, the confirmed plan includes broad exculpation and injunction provisions the Funds believe *Bank of N.Y. Trust Co., N.A. v. Official Unsecured Creditors’ Comm. (In re Pacific Lumber Co.)*, 584 F.3d 229 (5th Cir. 2009), plainly



prohibits.<sup>1</sup> A number of district courts and bankruptcy courts in this Circuit read *Pacific Lumber* as the Funds do, but the Bankruptcy Court read the case more narrowly. Accordingly, there is a conflict among the “lower” courts on a question of law that requires this Court’s resolution. *See* 28 U.S.C. § 158(d)(2)(A)(ii).

*Third*, the Bankruptcy Court held that the protections the Bankruptcy Code affords to creditors’ committees and their members may be extended to “other parties in a particular chapter 11 case that perform similar roles to a creditors’ committee and its members.” Neither this Court nor the Supreme Court has addressed or approved such a protection-by-analogy holding, and, so, there is no controlling authority on that legal question. *See* 28 U.S.C. § 158(d)(2)(A)(i).

The Confirmation Order meets the requirements of Section 158(d)(2) in three independent ways, and the Funds request that the Court allow a direct appeal.<sup>2</sup>

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<sup>1</sup> The Funds, who are the petitioners, include Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund and NexPoint Capital, Inc.

<sup>2</sup> As other aggrieved parties have noted in their separate petition for permission, there are issues for review beyond the exculpation and injunction issues. Because of space constraints, the Funds focus here on those issues that most plainly demonstrate that the confirmation order should be directly appealed; the Funds reserve the right to raise additional issues should the Court accept the direct appeal.

## FACTUAL AND PROCEDURAL HISTORY

The Bankruptcy Court fairly noted that this is not a garden-variety bankruptcy case. However, while the facts and procedural history are complex, the Funds believe the Court needs only a summary to understand this petition.

James Dondero co-founded Highland Capital Management L.P. (the “Debtor”) in 1993.<sup>3</sup> The Debtor provided services to and support for an extensive network of investment entities, trusts, other ventures and investment advisers.<sup>4</sup> The Debtor invested and managed billions of dollars on behalf of itself, its subsidiaries and affiliates and other unaffiliated entities.<sup>5</sup> The Debtor provided such services to collateralized loan obligation vehicles (“CLOs”).<sup>6</sup> The CLOs own assets, generally securities at this stage, and the Debtor manages them pursuant to a series of portfolio-management agreements between itself and the CLOs.<sup>7</sup>

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<sup>3</sup> Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (II) Granting Related Relief (the “Confirmation Order”) at ¶ 4 (attached at Tab “A”).

<sup>4</sup> Confirmation Order at ¶ 6.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) (the “Plan”) at Exh. B (attached at Tab “B”).

The Debtor filed for Chapter-11 bankruptcy protection in Delaware in October 2019.<sup>8</sup>

The Debtor and the Official Unsecured Creditors' Committee (the "Committee") had a difficult relationship from the start.<sup>9</sup> First, the Committee moved for a change of venue to the Northern District of Texas (which was granted).<sup>10</sup> Second, the Committee and, ultimately, the bankruptcy trustee pushed for appointment of a Chapter-11 trustee.<sup>11</sup>

On January 9, 2020, the Debtor, the Committee and Mr. Dondero entered into a stipulation and consent order (the "January 9 Order").<sup>12</sup> The January 9 Order provided, among other things, for the removal of Mr. Dondero from the management of the Debtor, replaced him with a board of independent directors (the "Independent Directors") and prohibited Mr. Dondero from causing "Related Entities" to terminate contracts with the Debtor.<sup>13</sup>

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<sup>8</sup> *Id.* at ¶ 4.

<sup>9</sup> *Id.* at ¶ 11.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at ¶ 12.

<sup>13</sup> *Id.* The Independent Directors include James P. Seery, Jr.; John S. Dubel and retired bankruptcy judge Russell Nelms. *Id.*

Among other things, Mr. Dondero beneficially owns two investment advisers, Highland Capital Management Fund Advisors, L.P., and NexPoint Advisors, L.P. (the “Advisors”), because he owns their general partners.<sup>14</sup>

Petitioners are several retail investment funds (the “Funds”). The Funds invest more than \$1 billion for the benefit of thousands of investors/shareholders. In doing so, the Funds receive advice and services from the Advisors. The Advisors and the Funds are subject to the regulatory regime established pursuant to the Investment Company Act of 1940 and the Investment Advisers Act of 1940. Among other investments, the Funds hold interests in a number of the CLOs described above.

Because Mr. Dondero is a beneficial owner, the Advisors are “Related Entities” under the January 9 Order. At the time of the January 9 Order, each of the Advisors was a party to a shared-services agreement with the Debtor. Under the respective shared-services agreements, the Debtor was required to provide a wide range of services and support to the Advisors (and by extension, to the Funds), including accounting, legal, clerical, valuation and other “back-office” services, as well as office space, in exchange for a fee. The Advisors’ compliance with their

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<sup>14</sup> The Advisors have filed a separate appeal from the Confirmation Order and have filed a separate petition seeking permission to appeal directly to this Court. That petition is docketed at No. 21-90011.

regulatory and fiduciary obligations to the Funds was facilitated by their access to shared services provided by the Debtor.

While the January 9 Order limited Mr. Dondero’s ability to cause the Advisors to terminate agreements, the Debtor was not so limited. Thus, the Debtor notified the Advisors on November 30, 2020, that the shared-services agreements would be terminated effective January 31, 2021 (as extended, through February 28). In December 2020, the Advisors advised—and the Funds agreed—that the Advisors should seek limited relief from the Bankruptcy Court with respect to the Debtor’s role as portfolio manager of the CLOs. Specifically, the Advisors and the Funds requested that the Bankruptcy Court prohibit the Debtor from trading or disposing of CLO assets pending the confirmation hearing on the Debtor’s plan.<sup>15</sup> After the Bankruptcy Court denied the motion, the Advisors and the Funds requested that the Debtor not trade in CLO assets on a voluntary basis. The Debtor denied that request.

Outside of the bankruptcy context, the Funds collectively hold the majority of preference shares in three CLOs for which the respective portfolio-management agreements allow them to remove the Debtor as portfolio manager “for cause.” While the Debtor remained in bankruptcy and before confirmation of the Plan, the

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<sup>15</sup> The CLO assets are not property of the bankruptcy estate; they are, instead, assets under the Debtor’s management and for which the Debtor is paid a management fee.



Bankruptcy Court would have had to approve any such removal in the form of relief from the automatic stay. After confirmation, the general rule is that contracts may be terminated according to their terms, if those contracts have been assumed.

Over objections from the Funds and others, the Bankruptcy Court confirmed the Plan on February 22, 2021. The Debtor's representatives presented the Plan as an "asset-maximization plan." Under the confirmed Plan, the reorganized Debtor intends to liquidate its assets over the course of an approximate two-year period. In addition to liquidating its assets, the Debtor, having assumed the portfolio-management agreements, continues to manage the assets of others, including the CLOs. It similarly intends to liquidate the assets of others within the same period.

As noted, the Debtor assumed the portfolio-management agreements. However, the Plan goes further than merely assuming and reinstating those agreements and binding the parties to their written terms.

The Plan, as approved over objections by the Funds and others, includes a number of disputed provisions. Article IX includes both exculpation and injunction provisions:

### **C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the

Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.<sup>16</sup>

Article I.B of the Plan defines “Exculpated Parties” broadly:

“*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii) ...<sup>17</sup>

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<sup>16</sup> See Plan at IX.C.

<sup>17</sup> *Id.* at I.B.

Thus, the approved Plan exculpates not only the Debtor but also the Independent Directors, employees of the Debtor, officers and directors of the Debtor and professionals retained by the Debtor—among others. That exculpation extends not only to creditors’ direct claims but to the negotiation, administration and implementation of the Plan as well as to ordinary business matters and post-confirmation matters related to plan implementation.<sup>18</sup>

The accompanying Plan injunction is broad as well. It provides, among other things, that “all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.”<sup>19</sup> (“Enjoined Parties” is defined broadly to include, among others, all entities that “have held, hold, or may hold claims against the Debtor’s equity interests and any entity “that has appeared and/or filed any motion, objection, or other pleading” in the Chapter-11 case.<sup>20</sup>) The Confirmation Order bars any Enjoined Party from commencing or pursuing a claim or cause of action against

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<sup>18</sup> To be clear, the exculpation is not a full release but imposition of a particularly high burden of proof on anyone seeking to assert a claim against an Exculpated Party. Essentially, an Exculpated Party is released unless its acts or omissions “constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct ...” Plan at IX.C. That heightened burden is material in that, among other things, it releases that large group of persons and entities from claims for negligence.

<sup>19</sup> Plan at IX.F.

<sup>20</sup> *Id.* at I.B.

any “Protected Party” unless the Bankruptcy Court first determines that the claim or cause of action is “colorable.”<sup>21</sup> (“Protected Parties” is defined broadly to include, among others, the Debtor, the Debtor’s employees, the Committee and its members and professionals retained by the Debtor and the Committee in the Chapter-11 case.<sup>22</sup>)

The Funds believe that the exculpation and gatekeeper/channeling-injunction provisions exceed the scope of what this Court has previously permitted. The Funds contend that these provisions restrict their ability to act quickly and appropriately in fulfillment of their investment objectives and impair their ability to protect their retail investors. The issue is of critical and practical importance to the Funds because they invest in a number of illiquid assets with a long-term investment horizon. On the other hand, the Debtor’s liquidation plan anticipates a short, two-year window for the Debtor to liquidate its assets as well as those assets it manages. Thus, the Debtor’s short-term liquidation goal conflicts with the Funds’ plan to hold the assets for a longer term. Were the Debtor to sell the CLO assets as planned, it would act against the Fund’s wishes, and the Funds believe the challenged Plan terms

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<sup>21</sup> Plan at IX.F.

<sup>22</sup> *Id.* at I.B.

improperly interfere with the Funds' right and ability to remove the manager in such a situation.

## QUESTIONS PRESENTED

1. Whether the Court should accept direct review of the Bankruptcy Court's Confirmation Order because an immediate appeal may materially advance the progress of the case, *see* 28 U.S.C. § 158(d)(2)(A)(iii), since—

a. all parties concur that the interests at stake in this bankruptcy matter are such that, if the appeals are heard in the District Court, it is all but certain that the non-prevailing party or parties will then take an appeal or appeals to this Court;

b. all parties concur that, in light of the inevitability of this Court's review, requiring the parties to pursue appeals first in the District Court would delay finality of the Plan for the Debtor, creditors and other interested parties by a year or more; and

c. all parties concur that, in light of the inevitability of this Court's review, requiring the parties to pursue appeals first in the District Court would cause the parties collectively to incur hundreds of thousands of dollars in attorneys' fees for ultimately unnecessary proceedings in the District Court.



2. Whether the Court should accept direct review of the Bankruptcy Court's Confirmation Order because that order involves a question of law requiring resolution of conflicting decisions since a number of cases in this Circuit have interpreted *Pacific Lumber* to prohibit inclusion in a bankruptcy plan of broad exculpation and injunction provisions such as those the Bankruptcy Court approved in this case. *See* 28 U.S.C. § 158(d)(2)(A)(ii).

3. Whether the Court should accept direct review of the Confirmation Order because the Bankruptcy Court's holding that the protections the Bankruptcy Code affords to creditors' committees and their members may be extended to "other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members" is a question of law as to which there is no controlling decision of this Court or the Supreme Court. *See* 28 U.S.C. § 158(d)(2)(A)(i).

### **REASONS FOR THE COURT TO GRANT THIS PETITION**

Section 158(d)(2) of Title 28 of the U.S. Code provides that a bankruptcy court may certify an order for direct appeal to the court of appeals when the order (1) involves a controlling issue of law as to which there is no controlling decision of the court of appeals or the Supreme Court, (2) the order involves a question of law requiring resolution of conflicting decisions or (3) an immediate appeal from the order may materially advance the progress of the case or proceeding in which the

appeal is taken. *See* 28 U.S.C. § 158(d)(2)(A)(i)-(iii); *In re OCA, Inc.*, 552 F.3d 413, 418 (5th Cir. 2008). If the bankruptcy court certifies the order, the would-be appellant must then file a petition with the court of appeals seeking permission to appeal under the same standard. *Id.*

The parties jointly asked the Bankruptcy Court to certify its confirmation order for direct appeal to this Court, and the Bankruptcy Court did so.<sup>23</sup>

***A. The Bankruptcy Court correctly determined that an immediate appeal would materially advance the progress of the case.***

In granting the parties' joint motion for certification, the Bankruptcy Court agreed that "a direct appeal may materially advance the progress of the case or proceeding in which the appeal is taken."<sup>24</sup> The Funds agree.

In *In re MPF Holding U.S. LLC*, 444 B.R. 719 (Bankr. S.D. Tex. 2011), a bankruptcy court held that a direct appeal would be appropriate because the stakes were sufficiently high that it was particularly likely that any decision by the district court would ultimately be appealed to this Court such that requiring the parties first to appeal to the district court would unnecessarily delay a final resolution of the

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<sup>23</sup> *See* Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit (the "Certification Order") (Tab "C").

<sup>24</sup> *Id.* at 2.

bankruptcy. *Id.* at 727. This Court accepted and decided the appeal. *See* 701 F.3d 449 (5th Cir. 2012).

Moreover, as the parties informed the Bankruptcy Court in requesting its certification for direct appeal, the parties, creditors and others would benefit from a direct appeal in that they would have this Court's decision that much sooner and the bankruptcy case could be fully administered and closed. Among other things, as noted above the Debtor intends to take certain steps in the next two years—steps the Funds believe may impair their interests and those of the CLOs—and the Funds believe the Plan as confirmed leaves them with an insufficient remedy. When it reviews the Plan, this Court will of course either reject or allow the challenged provisions, but the progression of events and the Debtor's plans make it important for the parties to have that resolution sooner rather than later.

Thus, the case meets the requirements of Section 158(d)(2)(A)(iii), and the Funds request that the Court grant permission for a direct appeal from the Bankruptcy Court's Confirmation Order.

***B. The Bankruptcy Court's Confirmation Order involves questions of law on which lower courts have differed such that this Court's resolution is necessary.***

On at least one of the principal issues on which the Funds seek permission to appeal, the Bankruptcy Court's interpretation of the law conflicts with that of other

courts. While the Funds believe the Bankruptcy Court erred in not following *Pacific Lumber* such that its Confirmation Order should be reversed, they will focus here on detailing the conflict rather than arguing the ultimate merits because the conflict is the focus under § 158(d)(2)(A)(ii).

In this Circuit, *Pacific Lumber* is important—and, in the Funds view, controlling—authority regarding the permissible scope of exculpation provisions and related injunctions. The procedural background of *Pacific Lumber* is lengthy and complex, but the facts relevant here are neither. The bankruptcy court approved a plan that included an exculpation provision that protected not just the debtor but a number of other persons and entities, including the debtor’s personnel, the current owners of the reorganized debtor (MRC and Marathon) and two entities created by the plan (Newco and Townco) into which certain of the debtor’s assets were transferred as well as the personnel of those parties. On direct appeal from the bankruptcy court, this Court rejected the exculpation of non-debtor parties:

The plan releases MRC, Marathon, Newco, Townco, and the Unsecured Creditors’ Committee (and their personnel) from liability—other than for willfulness and gross negligence—related to proposing, implementing, and administering the plan. The law states, however, that “discharge of a debt of the debtor does not affect the liability of any other entity on such debt.” 11 U.S.C. § 524(e).

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We see little equitable about protecting the released non-debtors from negligence suits arising out of the reorganization. In a variety of contexts, this court has held that Section 524(e) only releases the

debtor, not co-liable third parties. *See, e.g., In re Coho Resources, Inc.*, 345 F.3d 338, 342 (5th Cir. 2003); *Hall v. National Gypsum Co.*, 105 F.3d 225, 229 (5th Cir. 1997); *Matter of Edgeworth*, 993 F.2d 51, 53-54 (5th Cir. 1993); *Feld v. Zale Corporation*, 62 F.3d 746 (5th Cir. 1995). These cases seem broadly to foreclose non-consensual non-debtor releases and permanent injunctions.

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There are no allegations in this record that either MRC/Marathon or their or the Debtors' officers or directors were jointly liable for any of Palco's or Scopac's pre-petition debt. They are not guarantors or sureties, nor are they insurers. Instead, the essential function of the exculpation clause proposed here is to absolve the released parties from any negligent conduct that occurred during the course of the bankruptcy. The fresh start § 524(e) provides to debtors is not intended to serve this purpose.

584 F.3d at 251-52 (footnotes omitted). A number of courts have interpreted *Pacific Lumber* broadly to reject exculpation provisions that reach beyond the debtor itself and the creditors' committee. For example, in *In re Patriot Place, Ltd.*, 486 B.R. 773 (Bankr. W.D. Tex. 2013), the court wrote that this Court "takes a very restrictive approach to non-debtor releases in bankruptcy cases" and cited *Pacific Lumber* for the proposition that "[t]he Fifth Circuit cases seem 'broadly to foreclose non-consensual non-debtor releases and permanent injunctions.'" 486 B.R. at 882. In *Dropbox, Inc. v. Thru, Inc. (In re Thru, Inc.)*, No. 3:17-CV-1958-G, 2018 WL 5113124 (N.D. Tex. Oct. 19, 2018), the district court rejected an exculpation clause much like the one in the Plan in this case and offered the following analysis:



In *In re The Pacific Lumber Company*, the plan in question released the debtor and its personnel from liability, other than for willfulness and gross negligence, “related to proposing, implementing, and administering the plan.” *In re The Pacific Lumber Company*, 584 F.3d at 251. There, the Fifth Circuit determined that the broad exculpation provision contained in the plan was designed “to absolve the released parties from any negligent conduct that occurred during the course of the bankruptcy” which the fresh start provision in Bankruptcy Code section 524(e)[14] was not intended to do. *Id.* at 252. Here, Thru’s plan releases Thru, its officers, directors, and various other personnel from liability, except for acts or omissions made in bad faith, “in connection with or related to formulating, negotiating, implementing, confirming, or consummating” the plan, disclosure statement, or any plan document. Modified Chapter 11 Plan at 25, ¶ 9.7 (emphasis added).

The appellees’ attempts to distinguish their plan’s exculpation language from that of the language used in *In re The Pacific Lumber Company* are unpersuasive.

*Id.* at \*22-\*23. The court also rejected an injunction provision that was “broad enough to cover non-debtor third parties ...” because the court read *Pacific Lumber* to preclude such an injunction. *Id.* at \*21 (citing *Pacific Lumber*, 584 F.3d at 252 (Fifth Circuit authority “seems broadly to foreclose non-consensual non-debtor releases and permanent injunction.”)).

A judge in the same bankruptcy court from which this matter arises understood *Pacific Lumber* to preclude non-consensual third-party exculpation:

The plan in *Pacific Lumber* provided numerous third parties with protection from liability for their negligent conduct during the course of the chapter 11 case including liability related to proposing, implementing, and administering the plan. The third-party protections in *Pacific Lumber* applied to the debtors’ officers and directors as well as

the companies that proposed the plan and that ultimately acquired majority ownership of the reorganized debtors. Although a third-party exculpation provision arguably might be defended as justified by the bankruptcy court's equitable powers given by Code § 105, Chief Judge of the Fifth Circuit Court of Appeals Edith Jones struck the exculpatory provisions because the Court saw "little equitable about protecting the released non-debtors from negligence suits arising out of the reorganization." *Id.* at 252.

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Debtors and the Equity Committee argue that the ruling in *Pacific Lumber* is limited to the facts of that case. The court disagrees. Chief Judge Jones wrote that "non-debtor releases are most appropriate as a method to channel mass claims toward a specific pool of assets." *Id.* at 252. Chief Judge Jones also cited to several prior Fifth Circuit decisions ... stating that, "these cases seem broadly to foreclose non-consensual non-debtor releases and permanent injunctions." *Id.* These statements persuade the court that the ruling in *Pacific Lumber* is not limited to its facts. Indeed, there is nothing in the *Pacific Lumber* opinion which, in the court's view, can reasonably be read to limit its ruling to the facts of that case.

*In re Pilgrim's Pride Corp.*, 08-45664-DML-11, 2010 WL 200000 at \*4-\*5 (Bankr. N.D. Tex. Jan. 14, 2010).

The Bankruptcy Court in this matter understood *Pacific Lumber* differently.<sup>25</sup>

The court held that *Pacific Lumber* focused on 11 U.S.C. § 524(e) but that the case

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<sup>25</sup> The Bankruptcy Court wrote that certain earlier orders in the case, including the January 9 Order described in the statement of the case, above, and a July 16, 2020, order had already exculpated the Independent Directors and Mr. Seery and were due *res judicata* effect. *See* Confirmation Order at ¶ 73. When the merits are before this Court, the Funds will demonstrate that the Bankruptcy Court was mistaken in that determination, and in any event those orders would not shield the exculpation and injunction provisions from appellate review.

does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditor's committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties. ... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on the committee. *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy based and based on creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members.<sup>26</sup>

Thus, the Bankruptcy Court read *Pacific Lumber* as rejecting only third-party exculpations in the Section-524(e) context but not in others. That holding is plainly in conflict with cases like *Patriot Place*, 486 B.R. at 882 ("[t]he Fifth Circuit cases seem 'broadly to foreclose non-consensual non-debtor releases and permanent injunctions.'"), and *In re Thru*, 2018 WL 5113124 at \*22.

The Bankruptcy Court also overruled the Funds' objection that the Plan's channeling injunction is foreclosed by *Pacific Lumber* because it extends impermissibly to protect third parties.<sup>27</sup> As noted, *In re Thru* understood *Pacific*

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<sup>26</sup> Confirmation Order at ¶ 74(a).

<sup>27</sup> *Id.* at ¶¶ 75-76.

*Lumber* to prohibit non-consensual, permanent injunctions in favor of non-debtors.

See *In re Thru*, 2018 WL 5113124 at \*21.

While the Funds believe this Court will confirm that *Pacific Lumber* should be read more broadly than the Bankruptcy Court did, the Court need not decide that issue now. It is enough for the Court to decide that there are conflicting decisions in need of this Court's resolution. See § 158(d)(2)(A)(ii). There are.

**C. *The Bankruptcy Court's determination that certain protections afforded to a creditors' committee and its members should be extended to "other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members" raises a question of law as to which there is no controlling authority.***

As noted in the previous section, in its discussion of *Pacific Lumber*, the Bankruptcy court held that

*Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy based and based on creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members.<sup>28</sup>

The Funds believe that protection-by-analogy holding is wrong under both *Pacific Lumber* and Section 1103(c), but for present purposes it is sufficient to say that the

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<sup>28</sup> *Id.* at ¶ 74(a).

Bankruptcy Court appears to be the first court to reach that holding and that neither this Court nor the Supreme Court has addressed it.

Section 158(d)(2)(A)(i) permits a direct appeal when the bankruptcy court's order "involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States ..." The legal question of whether parties "that perform similar roles to a creditors' committee and its members" should be entitled to the same protections as creditors' committees and their members is such a question.



## CONCLUSION

Accordingly, the Funds respectfully request that the Court grant this petition and allow a direct appeal to this Court from the Bankruptcy Court's Confirmation Order.

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*Counsel for Petitioners*  
April 13, 2021

## CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), the undersigned counsel certifies that this brief:

(i) complies with the type-volume limitation of Federal Rule of Appellate Procedure 5(C)(1) because it contains 4,912 words, including footnotes and excluding the cover, certificate of interested persons, table of contents, table of authorities, certificate of compliance and certificate of service.

(ii) complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 2010 and is set in Equity font in a size equivalent to 14 points or larger.

/s/ David R. Fine

## CERTIFICATE OF SERVICE

I certify that, on April 13, 2021, I filed the attached document with the Court's CM/ECF system and that I also e-mailed a copy with exhibits to the following:

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/s/ David R. Fine

Tab “A”



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

United States Bankruptcy Judge

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

) Chapter 11

) Case No. 19-34054-sgj11

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.



*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*

*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor’s Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an “asset monetization plan” because it involves the orderly wind-down of the Debtor’s estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor’s economic stakeholders. The Claimant Trustee is responsible

for this process, among other duties specified in the Plan's Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor's economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan's release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor's case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the



bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are

offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor’s Operational History.** The Debtor’s primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor’s current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was “run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits.” The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor’s Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.

The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has

continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended

proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty's claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as "HarbourVest" invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest's claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee's relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from



Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).

13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was

much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also

included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

16. **Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing



were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrate Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

#### 17. **Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court

questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor’s 2008 return, which the Debtor believes arise from Get Good’s equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor’s alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the “Highland Advisors and Funds.” *See* Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post’s credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors’ request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently

testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and

Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.’s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States’ (IRS) Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty’s Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty’s claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.



22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor's Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC ("KCC"), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in

connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the “Plan Modifications”). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of

section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were

distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other



Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors

will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is

Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy

Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.



- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.

44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trust Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.

45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the

Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the

Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity



Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.

- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).

49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

Article IV.B of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).**

The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.



- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and

certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will

periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does

not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.

61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business



in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be

assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

**69. Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

**70. Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor’s release of the Debtor’s and Estate’s claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a “disguised” release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor’s conditional release of claims against employees, as identified in the Plan, and the Plan’s conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual

fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at

their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief



Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors' objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber's* denial of exculpation for certain parties other than a creditors' committee and its members is that section 524(e) of the Bankruptcy Code "only releases the debtor, not co-liable third parties." *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors' committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee." *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy-based and based on a creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not

part of the Debtor’s enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors’ committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber’s* policy of exculpating creditors’ committees and their members from “being sued by persons unhappy with the committee’s performance during the case or unhappy with the outcome of the case” is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that “costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization.” *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero’s pot plan does not get approved, that Mr. Dondero will “burn the place down.” The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.

75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous.

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is

colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to

as frivolous and a waste of the Bankruptcy Court’s time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor’s settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court’s order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero’s affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the “Dondero Post-Petition Litigation”).

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery’s credible testimony, that if Mr. Dondero’s plan proposal was not accepted, he would “burn down the place.” The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery’s testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result



in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor's insurance broker ("AON"), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor's assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected

Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the

Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.



sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the

representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.

**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts

include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will

be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the



Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the

Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Ferona Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date

must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,

discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);



*provided, however,* the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in

Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or

any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,

including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the



Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.

**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under

applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.

**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the

avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior

Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable



immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have

any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that

the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

**Exhibit A**

**Fifth Amended Plan (as Modified)**

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

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

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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Counsel for the Debtor and Debtor-in-Possession

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 6**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

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*000001*  
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1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

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*000479*  
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*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)



Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) <u>2490</u> Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

TRANSCRIPT

Vol. 12

002705

78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set

forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) "\$" or "dollars" means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "*Acis*" means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. "*Administrative Expense Claim*" means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. "*Administrative Expense Claims Bar Date*" means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. "*Administrative Expense Claims Objection Deadline*" means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. "*Affiliate*" of any Person means any Entity that, with respect to such Person, either (i) is an "affiliate" as defined in section 101(2) of the Bankruptcy Code, or (ii) is an "affiliate" as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term "control" (including, without limitation, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. "*Allowed*" means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.



24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests

unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.

42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized

Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.



69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.



81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,

and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder

of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.



130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on



or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed

Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF  
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6

Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.



9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor’s rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

## 2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;



(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer

of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and

no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

### **C. The Reorganized Debtor**

#### **1. Corporate Existence**

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

#### **2. Cancellation of Equity Interests and Release**

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

#### **3. Issuance of New Partnership Interests**

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,



the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.



**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),

as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.



The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.



**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however,* that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust



Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

#### **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

#### **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on



the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing

will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

## **E. Preservation of Rights of Action**

### **1. Maintenance of Causes of Action**

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

### **2. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder’s respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).



**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;



- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700

Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to

evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*



Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By:



James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
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Prepared by:

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**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### **Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.

19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company



Tab “B”

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

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

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**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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Counsel for the Debtor and Debtor-in-Possession

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<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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## DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

### **ARTICLE I.** **RULES OF INTERPRETATION, COMPUTATION OF TIME,** **GOVERNING LAW AND DEFINED TERMS**

#### **A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set

forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) "\$" or "dollars" means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "*Acis*" means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. "*Administrative Expense Claim*" means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. "*Administrative Expense Claims Bar Date*" means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. "*Administrative Expense Claims Objection Deadline*" means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. "*Affiliate*" of any Person means any Entity that, with respect to such Person, either (i) is an "affiliate" as defined in section 101(2) of the Bankruptcy Code, or (ii) is an "affiliate" as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term "control" (including, without limitation, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. "*Allowed*" means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests



unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.

42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized

Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,



and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder

of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on



or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed



Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.**  
**CLASSIFICATION AND TREATMENT OF**  
**CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6

Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.



- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor’s rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;

(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer



of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and

no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

### **C. The Reorganized Debtor**

#### **1. Corporate Existence**

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

#### **2. Cancellation of Equity Interests and Release**

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

#### **3. Issuance of New Partnership Interests**

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,

the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.



**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.



**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),

as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.



**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.



Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however,* that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

#### **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

#### **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on



the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing



will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

## **E. Preservation of Rights of Action**

### **1. Maintenance of Causes of Action**

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

### **2. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder’s respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;



- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;



- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700

Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to

evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By:

James P. Seery, Jr.

Chief Executive Officer and Chief Restructuring Officer



Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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ZAnnable@HaywardFirm.com

*Counsel for the Debtor and Debtor-in-Possession*



**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### **Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.

19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

# Tab “C”





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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed March 16, 2021

*Henry G. C. George*  
United States Bankruptcy Judge

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

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	Case No. 19-34054 (SGJ11)
Debtor.	)	

**ORDER CERTIFYING APPEALS OF THE CONFIRMATION ORDER  
FOR DIRECT APPEAL TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

CAME ON FOR CONSIDERATION the *Joint Motion for Certification of Appeals of Confirmation Order for Direct Appeal to the Fifth Circuit* (the "Motion"), filed jointly by Highland Capital Management, L.P., Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund, James Dondero, Get Good Trust, and The Dugaboy Investment Trust (collectively, the "Parties").

By the Motion, the Parties jointly request a certification for a direct appeal to the Fifth Circuit of the following appeals (collectively, the “Appeals”) of the Court’s *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [docket no. 1943] (the “Confirmation Order”):

- (i) the notice of appeal filed by Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. on March 1, 2021 at docket no. 1957;
- (ii) the notice of appeal filed by Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., and NexPoint Strategic Opportunities Fund on March 3, 2021 at docket no. 1966;
- (iii) the notice of appeal filed by James Dondero on March 4, 2021 at docket no. 1970; and
- (iv) the notice of appeal filed by Get Good Trust and The Dugaboy Investment Trust on March 4, 2021 at docket no. 1972.

Having considered the Motion, concluding that the Court has core jurisdiction over the Motion, finding that no further notice or hearing on the Motion is required as all parties affected thereby are the Parties to the Motion, and, based on the Parties joint certification and request as provided for in 28 U.S.C. § 158(d)(2)(B), and based also on the Court’s agreement with the factual predicates underlying the Parties’ certification and request, it is hereby:

ORDERED that the Appeals of the Confirmation Order are certified for direct appeal to the Fifth Circuit because a direct appeal may materially advance the progress of the case or proceeding in which the appeal is taken, within the meaning and operation of 28 U.S.C. § 158(d)(2)(A)(iii).

**### END OF ORDER ###**

**EXHIBIT 13**

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CASE NO. \_\_\_\_\_

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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**NEXPOINT ADVISORS, L.P. and HIGHLAND CAPITAL  
MANAGEMENT FUND ADVISORS, L.P.,**

**APPELLANTS**

**v.**

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

**APPELLEE**

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ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION  
BANKRUPTCY CASE No. 19-34054 (SGJ11)

APPEAL PENDING AS CIVIL ACTION No. 3:21-cv-00538-N IN THE UNITED  
STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION

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**PETITION FOR PERMISSION TO APPEAL  
(DIRECT APPEAL FROM BANKRUPTCY COURT, 28 U.S.C. § 158(d))**

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MUNSCH HARDT KOPF & HARR, P.C.

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ATTORNEYS FOR THE APPELLANTS

## **CERTIFICATE OF INTERESTED PERSONS**

The undersigned counsel of record certifies that the following listed persons and entities, as described in the fourth sentence of Rule 28.2.1, have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal:

**1. Appellants:**

**NexPoint Advisors, L.P.**

**Highland Capital Management Fund Advisors, L.P.**

Counsel for the Appellants:

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**2. Appellee:**

**Highland Capital Management, L.P.**

Counsel for Appellee:

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-- and --

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3. **Appellants in Separate Appeals (likely to be consolidated)**

**James Dondero**

Counsel:

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**NexPoint Strategic Opportunities Fund**

**Highland Global Allocation Fund**

**NexPoint Capital, Inc.**

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**Get Good Trust**

**The Dugaboy Investment Trust**

Counsel:

HELLER, DRAPER & HORN, L.L.C.

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/s/ Davor Rukavina  
Davor Rukavina, Esq.  
Counsel for the Appellants

**PETITION FOR PERMISSION TO APPEAL  
(DIRECT APPEAL FROM BANKRUPTCY COURT 28 U.S.C. § 158(d))**

NexPoint Advisors, L.P. and Highland Capital Management, L.P. (the “Movants” or the “Appellants”), respectfully request that the Court grant them permission to appeal the Confirmation Order (defined below) directly to this Court from the Bankruptcy Court, pursuant to Federal Rule of Appellate Procedure 5 and 28 U.S.C. § 158(d)(2)(A).

**I. PROCEDURAL BACKGROUND**

**A. THE CONFIRMATION ORDER**

This is an appeal of an order of the Bankruptcy Court confirming a Chapter 11 plan on “cramdown” over the objection of the Appellants and various others.

On February 22, 2021, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) entered that certain *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified); and (ii) Granting Related Relief* (the “Confirmation Order”), by which the Bankruptcy Court confirmed the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [docket no. 1808], as further modified (the “Plan”), filed by Highland Capital Management, L.P. (the “Debtor”).

A true and correct copy of the Confirmation Order, which includes the Plan as an original part thereof, is attached hereto as Exhibit “A.” Attached hereto as Exhibit “B” is a true and correct copy of the Bankruptcy Court’s oral February 8, 2021 ruling by which it confirmed the Plan and gave its oral findings of fact and conclusions of law.

The Debtor filed its voluntary Chapter 11 bankruptcy case (the “Bankruptcy Case”) on October 16, 2019 (the “Petition Date”), thereby creating its bankruptcy estate (the “Estate”). The Debtor is a registered investment advisor under the Investment Advisers Act of 1940. The Debtor is a multi-billion dollar global investment advisor and manager of various funds. *See* Confirmation Order at p. 6. Among other assets that the Debtor manages is more than \$1 billion invested by third parties in collateral loan obligation investment vehicles (the “CLOs”). *See id.*

The CLOs own the underlying assets, usually securities, and the Debtor manages those assets for the CLOs, including by making decisions as to when to sell CLO assets, pursuant to a series of portfolio management agreements between the Debtor and the CLOs (the “Management Agreements”). *See id.* Under the Plan, the Debtor assumed the Management Agreements under section 365 of the Bankruptcy Code. *See id.* at pp. 47-48; 68-69.

The Plan, labeled a “reorganization” plan, is actually a wind down and liquidation plan. The Plan bifurcates the Estate into two entities: (i) a claimant

trust is created for the benefit of creditors (and, as discussed below, potentially for the benefit of equity interest holders), which trust is vested with most assets of the Estate, including causes of action, *see id.* at pp. 5-6; and (ii) the Debtor is reorganized and retains various business assets, including its management rights of the CLOs. *See id.* The claimant trust will own the reorganized Debtor. *See id.* The reorganized Debtor will liquidate and wind-down its assets in approximately two (2) years. *See id.* at p. 47.

The Appellants have several interests directly implicated by the Plan. First, the Appellants themselves are registered advisors, who advise many publicly traded funds and other investment vehicles, some of which funds own interests in the CLOs or otherwise have their assets managed by the Debtor. As discussed below, the Plan enjoins the Appellants from advising or causing their clients to terminate the Debtor's CLO Management Agreements or to otherwise impede or interfere with the Debtor's reorganization. The Plan subjects the Appellants to the "gatekeeper injunction" requiring that they first obtain an order from the Bankruptcy Court before taking various actions against the reorganized Debtor, finding that any claim or cause of action they may wish to pursue is "colorable," including any such claim or cause of action that arises post-confirmation. And, as the holder of various Class 8 unsecured claims by way of transfer from the Debtor's former employees (once the Appellants hired those employees) and large

(approximately \$14 million) administrative claims, the Plan obviously impacts the Appellants' economic interests.<sup>1</sup> To protect these legitimate interests and to avoid being bound by permanent injunctions, the Appellants, among others, objected to the Plan, which objections the Bankruptcy Court overruled.

Creditors vote on a Chapter 11 plan by class. *See* 11 U.S.C. § 1126(c). To carry a class, a majority of creditors in that class who vote must vote for the plan and they must hold a supermajority of the claims in that class. *See id.* Importantly, Class 8, a class of unsecured creditors, rejected the Plan. *See* Confirmation Order at p. 42. The Plan does not pay Class 8 in full over time, but instead a projected 71% return. *See id.* at p. 41. This triggered the Absolute Priority Rule, codified in 11 U.S.C. § 1129(b)(2)(B). The Absolute Priority Rule provides that, because Class 8 rejected the Plan and is not paid in full, the holders of interests in junior classes (here, equity interests) cannot “receive or retain under the plan on account of such junior claim or interest any property.” 11 U.S.C. § 1129(b)(2)(B)(ii).

The Appellants argued that the Plan violated the Absolute Priority Rule because the Plan gave holders of equity interests contingent interests in the

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<sup>1</sup> The Debtor contests both the Class 8 unsecured claims and the administrative claims and maintains that the Appellants have no standing to contest the Plan or Confirmation Order. The allowance of those claims has not been determined as of this filing and is unlikely to be determined prior to this Court's adjudication of this Petition. The Bankruptcy Court has confirmed the Appellants' standing to contest the Plan and Confirmation Order. *See* Exhibit “B” at 20:15-16.

Creditors Trust, to be paid only if unsecured creditors are first paid in full. The Appellants argued that these contingent interests were “property” being “receive[d] or retain[ed]” under the Plan in direct violation of the Absolute Priority Rule. The Bankruptcy Court rejected this argument, relying on a bankruptcy court opinion holding that the Absolute Priority Rule is not violated when the holder of the contingent interest under the Plan does not receive any recovery unless and until higher priority creditors are paid in full first. *See* Confirmation Order at p. 45. This Court has not addressed this issue in any prior opinion.

The other important aspect of the Plan for appellate purposes is its various provisions exculpating various persons and its permanent injunctions. The Plan contains a broad exculpation provision exculpating the Debtor, its professionals, its general partner, and that partner’s board members, among others, from any claims for negligence. *See* Exhibit “A” at Plan pp. 47-48. This exculpation extends not only to case administration matters, but also to ordinary business matters and also to post-confirmation matters related to the implementation of the Plan. *See id.* Separately, the Plan contains broad permanent injunctions, prohibiting the Appellants from, among other things, “taking any actions to interfere with the implementation or consummation of the Plan.” *See id.* at p. 50. The Plan contains a permanent “gatekeeper injunction” prohibiting the Appellants from commencing or pursuing any claim or cause of action against various protected persons unless



the Bankruptcy Court first determines, after notice and a hearing, that such claim or cause of action is “colorable.” *See id.* at pp. 50-51.

The Appellants objected to the exculpation provisions of the Plan because those provisions effectuate prohibited third releases (*i.e.* claims by a non-debtor against a non-debtor) in violation of this Court’s precedent in *In re Pacific Lumber Co.*, 584 F.3d 229, 253 (5th Cir. 2009). *Pacific Lumber* permitted the exculpation of the members of a creditor’s committee for actions taken in the bankruptcy case, but it prohibited the exculpation of other persons or professionals. *See id.* at 253. Here, the Plan exculpates the Debtor and its professionals, as well as the Debtor’s general partner and its board members, meaning that, if the Appellants have claims against any of the exculpated parties, those claims are judicially extinguished. The Plan extends exculpation not just to case administration decisions, but also to ordinary business actions and decisions. Most unprecedentedly, the Plan also extends exculpation for post-confirmation matters, when the Debtor is out of bankruptcy and there is no more Estate. The Bankruptcy Court concluded that *Pacific Lumber* did not foreclose these exculpations and that this Court would revisit *Pacific Lumber*. *See* Confirmation Order at pp. 52-53.

With respect to the gatekeeper injunction, the Appellants objected to any such injunction for post-confirmation matters because the Bankruptcy Court will have no post-confirmation jurisdiction to determine whether a claim or cause of

action is “colorable” and because the imposition of any gatekeeper injunction for post-confirmation matters is not authorized by the Bankruptcy Code or any other law. The Estate ceases to exist upon confirmation and the Bankruptcy Court’s jurisdiction for post-confirmation matters is strictly limited. *See In re Craig’s Stores of Tex. Inc.*, 266 F.3d 388, 390 (5th Cir. 2001). Should the Appellants wish to pursue an action arising after confirmation, and the Bankruptcy Court finds that the claim is not “colorable,” that means that a court without jurisdiction will have forever decided and prohibited the bringing of the claim. With respect to exercising rights under the Management Agreements after confirmation, the Appellants argued that, once the Debtor assumed those agreements, the Debtor must comply with all terms of the agreements, such as the ability of the contract counterparty to remove the Debtor as manager under those agreements.

The Bankruptcy Court rejected these arguments, finding that the Debtor and others needed special protections from alleged vexatious litigation in the form of the “gatekeeper” injunction and other Plan injunction provisions, without which the Debtor would not be able to obtain post-confirmation D&O insurance. *See Confirmation Order* at pp. 57-59.

**B. THE APPEALS**

The Advisors timely filed their notice of appeal of the Confirmation Order to the United States District Court for the Northern District of Texas (the “District”

Court”), where their appeal is pending as Civil Action No. 3:21-cv-00538-N (the “Appeal”). A true and correct copy of their Notice of Appeal is attached hereto as Exhibit “C,” and a true and correct copy of their Statement of Issues on Appeal is attached hereto as Exhibit “D.”

The Debtor did not timely file a cross-appeal.

The Appellants requested a discretionary stay pending appeal of the Confirmation Order from the Bankruptcy Court, which motion the Bankruptcy Court denied. The Appellants are in the process of seeking a stay pending appeal of the Confirmation Order from the District Court.

To apprise the Court of very similar, if not identical, issues and proceedings, the following appellants (collectively, the “Other Appellants”) filed their separate notices of appeal, thereby initiating the following appeals (collectively, with the Appeal, the “Appeals”) before the District Court:

- (i) Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., and NexPoint Strategic Opportunities Fund, Civil Action No. 3:21-cv-00539-N;
- (ii) James Dondero, Civil Action No. 3:21-cv-00546-L; and
- (iii) Get Good Trust and The Dugaboy Investment Trust, Civil Action No. 3:21-cv-00550-L.

The Appellants and the Other Appellants have considered filing a joint petition for direct review but, because the Appeals have not been consolidated yet and due to the procedural uncertainty of such a course, the Appellants have determined instead to file this separate Petition and apprise the Court of these issues, such that the Court may take whatever action it finds most appropriate and efficient.

**C. THE ISSUES ON APPEAL**

The issues that the Appellants have raised on their Appeal (which may or may not be the same as the issues of the Other Appellants) are generally the following:

1. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order under the Absolute Priority Rule codified by 11 U.S.C. § 1129(b)(2)(B)(ii) because the Plan provides that the holders of equity interests, in the form of limited partnership interests in the Debtor, retain or receive any property under the Plan even though Class 8 under the Plan, a class of unsecured creditors not paid in full under the Plan, rejected the Plan?
2. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the exculpation provisions of the Plan, contained in Article IX of the Plan, effectuated

third party releases (*i.e.* releasing a claim of a non-debtor against a non-debtor) prohibited by the Bankruptcy Court and over which the Bankruptcy Court had no jurisdiction, in direct violation of this Court's precedent (*see, e.g., In re Pacific Lumber Co.*, 584 F.3d 229, 253 (5th Cir. 2009) and in violation of due process rights.

3. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the permanent injunction contained in Article IX of the Plan, which prohibits "taking any actions to interfere with the implementation or consummation of the Plan," is overly broad and impermissibly vague, and because the injunction prohibits the Appellants from advising various funds that they advise and manage, or causing said funds, to remove the Debtor as CLO portfolio manager over various CLOs that the Debtor manages pursuant to executory contracts assumed by the Plan, even though the assumption of an executory contract subjects the Debtor to all provisions of the contract on a go-forward basis as a matter of law.
4. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the "gatekeeper" injunction contained in Article IX of the Plan, which requires leave of the Bankruptcy Court upon a showing of a

“colorable” claim or cause of action, is not permitted by the Bankruptcy Code and effectively effectuates prohibited third party releases, is something that the Bankruptcy Court will have no postconfirmation jurisdiction to do, and as something that violates due process. Secondly, with respect to any justification of the injunction based on an allegation that the Appellants or the Other Appellants are vexatious litigants, whether there was any or sufficient evidence in the record to justify any such extraordinary injunction.

5. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the Debtor failed to satisfy the 11 U.S.C. § 1129(a)(2) element for confirmation requiring the Debtor to have complied with all applicable provisions of the Bankruptcy Code, which the Debtor admittedly failed to do because it utterly failed to comply with Bankruptcy Rule 2015.3.

**D. THE CERTIFICATION ORDER**

The Appellants, the Debtor, and the Other Appellants jointly moved the Bankruptcy Court to certify the Appeals for a direct appeal to this Court pursuant to 28 U.S.C. § 158(d)(2)(A). On March 16, 2021, the Bankruptcy Court entered its *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the*



*United States Court of Appeals for the Fifth Circuit* (the “Certification Order”), a true and correct copy of which is attached hereto as Exhibit “E.”

By the Certification Order, the Bankruptcy Court certified the Appeals for direct appeal “because a direct appeal may materially advance the progress of the case or proceeding in which the appeal is taken, within the meaning and operation of 28 U.S.C. § 158(d)(2)(A)(iii).

The Appellants expect the Other Appellants to file similar petitions for direct appeal based on the same Certification Order. If this Court grants all of the petitions, the Appellants expect that the Appeals will be consolidated before this Court.

## II. RELIEF REQUESTED

The Appellants respectfully petition this Court to grant permission for the Appeal to be heard directly by this Court, bypassing the District Court, as provided for by 28 U.S.C. § 158(d)(2). That section:

was enacted to provide for direct review of bankruptcy court judgments, orders, or decrees by the applicable court of appeals in cases where the bankruptcy court or the district court certify that there is no controlling decision from the Supreme Court or circuit court, the case involves a matter of public importance, there are conflicting precedents, or an immediate appeal may materially advance the progress of the bankruptcy proceeding.

*In re OCA, Inc.*, 552 F.3d 413, 418 (5th Cir. 2008) (citing 28 U.S.C. § 158(d)(2)(A)(i)-(iii)).

“The two primary goals behind this provision are (i) to provide quicker and less costly means of resolving significant issues that are inevitably bound for the court of appeals, and (ii) to facilitate the development of more binding precedents in bankruptcy law.” *In re Qimonda AG*, 470 B.R. 374, 382-83 (E.D.Va. 2012) (citing H.R. Rep. No. 109-31(7) at 148 (2005), as reprinted in 2005 U.S.L.L.A.N. 88, 206).

In the event that the Bankruptcy Court or the District Court makes the certification under 28 U.S.C. § 158(d)(2), this Court has jurisdiction if it authorizes the direct appeal. *Id.* As set forth in the Certification Order, the Bankruptcy Court determined that the Appeal meets the requirements for direct appeal because an immediate appeal may materially advance the progress of the case or the proceeding in which the Appeal is taken.

### III. DISCUSSION

The ultimate issue in this Appeal is whether the Bankruptcy Court properly confirmed the Plan under the requirements of the Bankruptcy Code and this Court’s precedent, with particular emphasis on whether the Plan violates the Absolute Priority Rule and this Court’s *Pacific Lumber* precedent.

The governing statute provides as follows:

The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved,

acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

28 U.S.C. 158(d)(2)(A).

Permission to appeal directly to this Court should be granted for two reasons. First, as agreed to by the Debtor and the Other Appellants, and as certified by the Bankruptcy Court, a direct appeal may materially advance the progress of the case or proceeding in which the Appeal is pending, within the meaning of section 158(d)(2)(A)(iii). Second, the underlying judgment involves a question of law as to which there is no controlling precedent from this Court or from the Supreme Court, and the judgment involves a matter of public importance, within the meaning of section 158(d)(2)(A)(i).

With respect to materially advancing the progress of the case, all parties have stated that they intend to appeal any ruling of the District Court, thus ensuring that this Court will consider this Appeal anyway. The Bankruptcy Court certified the Appeal on this basis. Insofar as this Court will almost certainly be presented with the same Appeal anyway, the Appellants submit that it is in everyone’s best interests to proceed with a direct appeal, as the parties will save significant fees and costs, upwards of one year of delay for finality will be avoided,<sup>2</sup> and the District Court will be spared being called upon to adjudicate an appeal that will be further appealed to this Court anyway.

The second ground for a direct appeal—no controlling authority and issues of public importance—is equally as important concerning this Court’s discretion in authorizing a direct appeal. This is because there is no controlling authority from this Court or the Supreme Court permitting a “work around” the Absolute Priority Rule by providing contingent trust interests to equity holders and merely providing that those interests cannot recover unless and until unsecured creditors are first paid in full. This is fundamentally a question of law on which neither this Court nor the Supreme Court has issued controlling authority.

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<sup>2</sup> Of importance to all creditors and parties-in-interest affected by the Plan, and especially by its payment and injunction provisions.

This question is also one of “public importance.” If the Absolute Priority Rule can be overcome with the Plan’s “work around,” then it is very likely that many Chapter 11 plans, affecting thousands or tens of thousands of creditors and parties-in-interest, will include a similar “work around.” In the view of the Appellants, this will substantially weaken the Absolute Priority Rule and, therefore, one of the main protections the Bankruptcy Code affords unsecured creditors, while debtors will argue that equitable mootness will prevent subsequent appellate review of confirmed and implemented plans.<sup>3</sup> A more prompt review by this Court of the issue, and any resulting precedent, will greatly aid those who administer bankruptcy cases and the Bankruptcy Courts asked to decide this issue.

#### **IV. PRAYER**

WHEREFORE, PREMISES CONSIDERED, the Appellants respectfully request that the Court, pursuant to 28 U.S.C. § 158(d), permit the Appeal to proceed directly in this Court.

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<sup>3</sup> The doctrine of equitable mootness may prevent appellate review of a substantially consummated plan in certain situations. Hence all the more need for a stay pending appeal of the Confirmation Order and for a prompt appellate review of the Confirmation Order.

RESPECTFULLY SUBMITTED this 30th day of March, 2021.

**MUNSCH HARDT KOPF & HARR, P.C.**

By: /s/ Davor Rukavina

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**ATTORNEYS FOR THE APPELLANTS**



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 30th day of March, 2021, he caused true and correct copies of this document, with all exhibits attached hereto, to be served by e-mail on the following parties through their respective counsel of record:

Appellee:

Highland Capital Management, L.P.:  
Jeffrey Pomerantz ([jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com))  
John A. Morris ([jmorris@pszjlaw.com](mailto:jmorris@pszjlaw.com))

Other Appellees:

Jim Dondero:  
John Bonds ([john@bondsellis.com](mailto:john@bondsellis.com))  
Clay Taylor ([clay.taylor@bondsellis.com](mailto:clay.taylor@bondsellis.com))

Highland Income Fund  
NexPoint Strategic Opportunities Fund  
Highland Global Allocation Fund  
NexPoint Capital, Inc.:  
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Get Good Trust  
The Dugaboy Investment Trust:  
Douglas Draper ([ddraper@hellerdraper.com](mailto:ddraper@hellerdraper.com))

/s/ Davor Rukavina  
Davor Rukavina, Esq.

**CERTIFICATION OF WORD COUNT**

The undersigned hereby certifies that this Petition complies with Rule 5(c) because it contains 4,578 words, excepting those portions that may be excepted.

/s/ Davor Rukavina  
Davor Rukavina, Esq.

# EXHIBIT A



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

**United States Bankruptcy Judge**

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

) Chapter 11

) Case No. 19-34054-sgj11

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.

*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*

*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.



## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor’s Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an “asset monetization plan” because it involves the orderly wind-down of the Debtor’s estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor’s economic stakeholders. The Claimant Trustee is responsible

for this process, among other duties specified in the Plan's Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor's economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan's release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor's case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the

bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are

offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor's Operational History.** The Debtor's primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor's current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was "run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits." The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor's Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.

The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has

continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended



proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty’s claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as “HarbourVest” invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest’s claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee’s relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from

Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).

13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was

much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also

included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

16. **Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing



were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrate Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

#### 17. **Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court

questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor’s 2008 return, which the Debtor believes arise from Get Good’s equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor’s alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the “Highland Advisors and Funds.” *See* Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post’s credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors’ request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently

testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and

Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.’s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States’ (IRS) Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty’s Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty’s claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.

22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor's Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC ("KCC"), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in



connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the “Plan Modifications”). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of

section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were

distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other

Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors

will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is



Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy

Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.

- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.

44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trustee Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.

45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the



Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the

Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 7**

SBAITI & COMPANY PLLC  
Mazin A. Sbaiti (TX Bar No. 24058096)  
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and CLO Holdco, Ltd.*

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

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
Debtor.	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
Plaintiffs,	§	Adversary Proceeding No.
vs.	§	21-03067-sgj11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
Defendant.	§	

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

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1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

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*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)



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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

TRANSCRIPT

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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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**Counsel for Appellants**

Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.



- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).

49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

Article IV.B of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).**

The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.

- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and

certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will



periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does

not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.

61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business

in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be

assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

**69. Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

**70. Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor’s release of the Debtor’s and Estate’s claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a “disguised” release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor’s conditional release of claims against employees, as identified in the Plan, and the Plan’s conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual



fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at

their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief

Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors' objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber's* denial of exculpation for certain parties other than a creditors' committee and its members is that section 524(e) of the Bankruptcy Code "only releases the debtor, not co-liable third parties." *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors' committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee." *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy-based and based on a creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not

part of the Debtor’s enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors’ committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber’s* policy of exculpating creditors’ committees and their members from “being sued by persons unhappy with the committee’s performance during the case or unhappy with the outcome of the case” is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that “costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization.” *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero’s pot plan does not get approved, that Mr. Dondero will “burn the place down.” The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.

75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is

colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to



as frivolous and a waste of the Bankruptcy Court’s time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor’s settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court’s order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero’s affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the “Dondero Post-Petition Litigation”).

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery’s credible testimony, that if Mr. Dondero’s plan proposal was not accepted, he would “burn down the place.” The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery’s testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result

in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor's insurance broker ("AON"), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor's assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected

Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the



Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.

sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the

representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.

**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts

include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will



be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the

Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the

Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Ferona Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date

must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,



discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);

*provided, however,* the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in

Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or

any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,



including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the

Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.

**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under

applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.

**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the

avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior



Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable

immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have

any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that

the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

Exhibit A

**Fifth Amended Plan (as Modified)**



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

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

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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Counsel for the Debtor and Debtor-in-Possession

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set

forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) "\$" or "dollars" means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "*Acis*" means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. "*Administrative Expense Claim*" means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. "*Administrative Expense Claims Bar Date*" means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. "*Administrative Expense Claims Objection Deadline*" means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. "*Affiliate*" of any Person means any Entity that, with respect to such Person, either (i) is an "affiliate" as defined in section 101(2) of the Bankruptcy Code, or (ii) is an "affiliate" as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term "control" (including, without limitation, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. "*Allowed*" means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests



unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized

Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,



and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.



102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder

of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on

or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed



Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.**  
**CLASSIFICATION AND TREATMENT OF**  
**CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote



**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6

Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

#### **I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

#### **J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

### **ARTICLE IV.** **MEANS FOR IMPLEMENTATION OF THIS PLAN**

#### **A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited



partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

## 2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;

(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer



of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.



11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and

no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

### **C. The Reorganized Debtor**

#### **1. Corporate Existence**

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

#### **2. Cancellation of Equity Interests and Release**

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

#### **3. Issuance of New Partnership Interests**

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,

the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.



**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.



**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),

as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.



Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.



**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trust, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

## **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

## **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on

the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing



will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation



Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

## **E. Preservation of Rights of Action**

### **1. Maintenance of Causes of Action**

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

### **2. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

#### **F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

**ARTICLE II.** Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;



- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor’s case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.



**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700

Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to

evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By:   
James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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*Counsel for the Debtor and Debtor-in-Possession*

**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**



### **Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.

19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

# EXHIBIT B

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

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In Re:	)	<b>Case No. 19-34054-sgj-11</b>
	)	Chapter 11
	)	
HIGHLAND CAPITAL	)	Dallas, Texas
MANAGEMENT, L.P.,	)	Monday, February 8, 2021
	)	9:00 a.m. Docket
Debtor.	)	
	)	BENCH RULING ON CONFIRMATION
	)	HEARING [1808] AND AGREED
	)	MOTION TO ASSUME [1624]
	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,  
UNITED STATES BANKRUPTCY JUDGE.

WEBEX APPEARANCES:

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1 APPEARANCES, cont'd.:

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3 Advisors:

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

1                   DALLAS, TEXAS - FEBRUARY 8, 2021 - 9:08 A.M.

2                   THE COURT: Please be seated.

3                   (Beeping.)

4                   THE COURT: Someone needs to turn off their whatever.

5                   All right. Good morning. This is Judge Jernigan, and we

6                   have scheduled today a bench ruling regarding the Debtor's

7                   plan that we had a confirmation trial on last week. This is

8                   Highland Capital Management, LP, Case No. 19-34054.

9                   Let me first make sure we've got Debtor's counsel on the  
10                  line. Do we have --

11                  MR. POMERANTZ: Yes.

12                  THE COURT: -- Mr. Pomerantz?

13                  MR. POMERANTZ: Yes, Your Honor. Good morning, Your  
14                  Honor. Jeff Pomerantz; Pachulski Stang Ziehl & Jones; on  
15                  behalf of the Debtor.

16                  THE COURT: Okay. Good morning. Do we have the  
17                  Creditors' Committee on the phone?

18                  MR. CLEMENTE: Good morning, Your Honor. Matthew  
19                  Clemente of Sidley Austin on behalf of the Creditors'  
20                  Committee.

21                  THE COURT: Good morning. All right. We had various  
22                  Objectors. Do we have Mr. Dondero's counsel on the phone?

23                  MR. LYNN: Yes, Your Honor. Michael Lynn, together  
24                  with John Bonds and Bryan Assink, for Jim Dondero.

25                  THE COURT: Good morning. For the Trusts, the

1 Dugaboy and Get Good Trusts, do we have Mr. Draper?

2 MR. DRAPER: Yes. Douglas Draper is on the line,  
3 Your Honor.

4 THE COURT: Good morning. Now, for what I'll call  
5 the Funds and Advisor Objectors, do we have Mr. Rukavina and  
6 your crew on the line?

7 MR. RUKAVINA: Davor Rukavina. And Lee Hogewood is  
8 also on the line.

9 THE COURT: All right. Good morning to you. All  
10 right. And we had objections pending from the U.S. Trustee as  
11 well. Do we have the U.S. Trustee on the line?

12 (No response.)

13 THE COURT: All right. If you're appearing, you're  
14 on mute. We're not hearing you.

15 All right. Well, we have lots of other folks. I don't  
16 mean to be neglectful of them, but we're going to get on with  
17 the ruling this morning. This is going to take a while. This  
18 is a complex matter, so it should take a while.

19 All right. Before the Court, of course, for consideration  
20 is the Debtor's Fifth Amended Plan, first filed on November  
21 24, 2020, as later modified on or around January 22, 2021,  
22 with more amendments filed on or around February 1, 2021. The  
23 Court will hereinafter refer to this as the "Plan."

24 The parties refer to the Plan as a monetization plan  
25 because it involves the gradual wind-down of the Debtor's

1 assets and certain of its funds over time, with the  
2 Reorganized Debtor continuing to manage certain other funds  
3 for a while, under strict governance and monitoring, and a  
4 Claimants Trust will receive the proceeds of that process,  
5 with the creditors receiving an interest in that trust. There  
6 is also anticipated to be Litigation Sub-Trust established for  
7 the purpose of pursuing certain avoidance or other causes of  
8 action for the benefit of creditors.

9 The recovery for general unsecured creditors is estimated  
10 now at 71 percent.

11 The Plan was accepted by 99.8 percent of the dollar amount  
12 of voting creditors in Class 8, the general unsecured class,  
13 but as to numerosity, a majority of the class of general  
14 unsecured creditors did not vote in favor of the plan.  
15 Specifically, 27 claimants voted no and 17 claimants voted  
16 yes. All but one of the rejecting ballots were cast by  
17 employees who, according to the Debtor, are unlikely to have  
18 allowed claims because they are asserted for bonuses or other  
19 compensation that will not become due.

20 Meanwhile, in a convenience class, Class 7, of general  
21 unsecured claims under one million dollars, one hundred  
22 percent of the 16 claimants who chose to vote in that class  
23 chose to accept the Plan.

24 Because of the rejecting votes in Class 8, and because of  
25 certain objections to the Plan, the Court heard two full days

1 of evidence, considering testimony from five witnesses and  
2 thousands of pages of documentary evidence, in considering  
3 whether to confirm the Plan pursuant to Sections 1129(a) and  
4 (b) of the Bankruptcy Code.

5 The Court finds and concludes that the Plan meets all of  
6 the relevant requirements of Sections 1123, 1124, and 1129 of  
7 the Code, and other applicable provisions of the Bankruptcy  
8 Code, but is issuing this detailed ruling to address certain  
9 pending objections to the Plan, including but not limited to  
10 objections regarding certain Exculpations, Releases, Plan  
11 Injunctions, and Gatekeeping Provisions of the Plan.

12 The Court reserves the right to amend or supplement this  
13 oral ruling in more detailed findings of fact, conclusions of  
14 law, and an Order.

15 First, by way of introduction, this case is not your  
16 garden-variety Chapter 11 case. Highland Capital Management,  
17 LP is a multibillion dollar global investment advisor,  
18 registered with the SEC pursuant to the Investment Advisers  
19 Act of 1940. It was founded in 1993 by James Dondero and Mark  
20 Okada. Mr. Okada resigned from his role with Highland prior  
21 to the bankruptcy case being filed. Mr. Dondero was in  
22 control of the Debtor as of the day it filed bankruptcy, but  
23 agreed to relinquish control of it on or about January 9,  
24 2020, pursuant to an agreement reached with the Official  
25 Unsecured Creditors' Committee, which will be described later.

1           Although Mr. Dondero remained on as an unpaid employee and  
2 portfolio manager with the Debtor after January 9, 2020, his  
3 employment with the Debtor terminated on October 9, 2020. Mr.  
4 Dondero continues to work for and essentially control numerous  
5 nondebtor companies in the Highland complex of companies.

6           The Debtor is headquartered in Dallas, Texas. As of the  
7 October 2019 petition date, the Debtor employed approximately  
8 76 employees.

9           Pursuant to various contractual arrangements, the Debtor  
10 provides money management and advisory services for billions  
11 of dollars of assets, including CLOs and other investments.  
12 Some of these assets are managed pursuant to shared services  
13 agreements with a variety of affiliated entities, including  
14 other affiliated registered investment advisors. In fact,  
15 there are approximately 2,000 entities in the Byzantine  
16 complex of companies under the Highland umbrella.

17           None of these affiliates of Highland filed for Chapter 11  
18 protection. Most, but not all, of these entities are not  
19 subsidiaries, direct or indirect, of Highland. And certain  
20 parties in the case preferred not to use the term "affiliates"  
21 when referring to them. Thus, the Court will frequently refer  
22 loosely to the so-called, in air quotes, "Highland complex of  
23 companies" when referring to the Highland enterprise. That's  
24 a term many of the lawyers in the case use.

25           Many of the companies are offshore entities, organized in



1 such faraway jurisdictions as the Cayman Islands and Guernsey.

2 The Debtor is privately owned 99.5 percent by an entity  
3 called Hunter Mountain Investment Trust; 0.1866 percent by the  
4 Dugaboy Investment Trust, a trust created to manage the assets  
5 of Mr. Dondero and his family; 0.0627 percent by Mark Okada,  
6 personally and through family trusts; and 0.25 percent by  
7 Strand Advisors, Inc., the general partner.

8 The Debtor's primary means of generating revenue has  
9 historically been from fees collected for the management and  
10 advisory services provided to funds that it manages, plus fees  
11 generated for services provided to its affiliates.

12 For additional liquidity, the Debtor, prior to the  
13 petition date, would sell liquid securities in the ordinary  
14 course, primarily through a brokerage account at Jefferies,  
15 LLC. The Debtor would also, from time to time, sell assets at  
16 nondebtor subsidiaries and distribute those proceeds to the  
17 Debtor in the ordinary course of business.

18 The Debtor's current CEO, James Seery, credibly testified  
19 that the Debtor was "run at a deficient for a long time and  
20 then would sell assets or defer employee compensation to cover  
21 its deficits." This Court cannot help but wonder if that was  
22 necessitated because of enormous litigation fees and expenses  
23 that Highland was constantly incurring due to its culture of  
24 litigation, as further addressed hereafter.

25 Highland and this case are not garden-variety for so many

1 reasons. One is the creditor constituency. Highland did not  
2 file bankruptcy because of some of the typical reasons a large  
3 company files Chapter 11. For example, it did not have a  
4 large asset-based secured lender with whom it was in default.  
5 It only had relatively insignificant secured indebtedness  
6 owing to Jefferies, with whom it had a brokerage account, and  
7 one other entity called Frontier State Bank.

8 Highland did not have problems with trade vendors or  
9 landlords. It did not suffer any type of catastrophic  
10 business calamity. In fact, it filed Chapter 11 six months  
11 before the COVID-19 pandemic was declared. The Debtor filed  
12 Chapter 11 due to a myriad of massive unrelated business  
13 litigation claims that it was facing, many of which had  
14 finally become liquidated or were about to become liquidated  
15 after a decade or more of contentious litigation in multiple  
16 fora all over the world.

17 The Unsecured Creditors' Committee in this case has  
18 referred to the Debtor under its former chief executive, Mr.  
19 Dondero, as a serial litigator. This Court agrees with that  
20 description. By way of example, the members of the Creditors'  
21 Committee and their history of litigation with the Debtor and  
22 others in the Highland complex are as follows:

23 First, the Redeemer Committee of the Highland Crusader  
24 Fund, which I'll call the Redeemer Committee. This Creditors'  
25 Committee member obtained an arbitration award against the

1 Debtor of more than \$190 million, inclusive of interest,  
2 approximately five months before the petition date from a  
3 panel of the American Arbitration Association. It was on the  
4 verge of having that award confirmed by the Delaware Chancery  
5 Court immediately prior to the petition date, after years of  
6 disputes that started in late 2008 and included legal  
7 proceedings in Bermuda. This creditor's claim was settled  
8 during the bankruptcy case in the amount of approximately  
9 \$137.7 million. The Court is omitting various details and  
10 aspects of that settlement.

11 The second Creditors' Committee member, Acis Capital  
12 Management, LP, which was formerly in the Highland complex of  
13 companies but was not affiliated with Highland as of the  
14 petition date. This UCC member and its now-owner, Josh Terry,  
15 were involved in litigation with Highland dating back to 2016.  
16 Acis was forced into an involuntary bankruptcy in the  
17 Bankruptcy Court for the Northern District of Texas, Dallas  
18 Division, by Josh Terry, who was a former Highland portfolio  
19 manager, in 2018 after Josh Terry obtained an approximately \$8  
20 million arbitration award and judgment against Acis that was  
21 issued by a state court in Dallas County, Texas. Josh Terry  
22 was ultimately awarded the equity ownership of Acis by the  
23 Dallas Bankruptcy Court in the Acis bankruptcy case.

24 Acis subsequently asserted a multimillion dollar claim  
25 against Highland in the Dallas Bankruptcy Court for Highland's

1 alleged denuding of Acis in fraud of its creditors, primarily  
2 Josh Terry.

3 The litigation involving Acis and Mr. Terry dates back to  
4 mid-2016, and has continued on, with numerous appeals of  
5 bankruptcy court orders, including one appeal still pending at  
6 the United States Court of Appeals for the Fifth Circuit.

7 There was also litigation involving Josh Terry and Acis in  
8 the Royal Court of the Island of Guernsey and in a court in  
9 New York.

10 The Acis claim was settled during this bankruptcy case in  
11 court-ordered mediation for approximately \$23 million. Other  
12 aspects and details of this settlement are being omitted.

13 Now, the third Creditors' Committee member, UBS  
14 Securities. It's a creditor who filed a proof of claim in the  
15 amount of \$1,039,000,000 in the Highland case. Yes, over one  
16 billion dollars. The UBS claim was based on the amount of a  
17 judgment that UBS received from a New York state court in 2020  
18 after a multi-week bench trial which had occurred many months  
19 earlier on a breach of contract claim against other entities  
20 in the Highland complex. UBS alleged that the Debtor should  
21 be liable for the judgment. The UBS litigation related to  
22 activities that occurred in 2008. The litigation involving  
23 UBS and Highland and its affiliates was pending for more than  
24 a decade, there having been numerous interlocutory appeals  
25 during its history.

1           The Debtor and UBS recently announced a settlement of the  
2 UBS claim, which came a few months after court-ordered  
3 mediation. The settlement is in the amount of \$50 million as  
4 a general unsecured claim, \$25 million as a subordinated  
5 claim, and \$18 million of cash coming from a nondebtor entity  
6 in the Highland complex known as Multistrat. Other aspects of  
7 this settlement are being omitted.

8           The fourth and last Creditors' Committee member is Meta-e  
9 Discovery. It is a vendor who happened to supply litigation  
10 and discovery-related services to the Debtor over the years.  
11 It had unpaid invoices on the petition date of more than  
12 \$779,000.

13           It is fair to say that the members of the Creditors'  
14 Committee in this case all have wills of steel. They fought  
15 hard before and during the bankruptcy case. The members of  
16 the Creditors' Committee are highly sophisticated and have had  
17 highly sophisticated professionals representing them. They  
18 have represented their constituency in this case as  
19 fiduciaries extremely well.

20           In addition to these Creditors Committee members, who were  
21 all embroiled in years of litigation with Highland and its  
22 affiliates in various ways, the Debtor has been in litigation  
23 with Patrick Daugherty, a former limited partner and employee  
24 of Highland, for many years in both Delaware and Texas state  
25 courts. Patrick Daugherty filed a proof of claim for "at

1 least \$37.4 million" relating to alleged breached employment-  
2 related agreements and for the tort of defamation arising from  
3 a 2017 press release posted by the Debtor.

4 The Debtor and Patrick Daugherty recently announced a  
5 settlement of the Patrick Daugherty claim in the amount of  
6 \$750,000 cash on the effective date, an \$8.25 million general  
7 unsecured claim, and a \$2.75 million subordinated claim.  
8 Other aspects and details of this settlement are being  
9 omitted.

10 Additionally, an entity known as HarbourVest, who invested  
11 more than \$70 million with an entity in the Highland complex,  
12 asserted a \$300 million proof of claim against Highland,  
13 alleging, among other things, fraud and RICO violations. The  
14 HarbourVest claim was settled during the bankruptcy case for a  
15 \$45 million general unsecured claim and a \$35 million junior  
16 claim.

17 Other than these claims just described, most of the other  
18 claims in this case are claims asserted against the Debtor by  
19 other entities in the Highland complex, most of which entities  
20 the Court finds to be controlled by Mr. Dondero; claims of  
21 employees who believe that they are entitled to large bonuses  
22 or other types of deferred compensation; and claims of  
23 numerous law firms that did work for Highland and were unpaid  
24 for amounts due to them on the petition date.

25 Yet another reason this is not your garden-variety Chapter



1 11 case is its postpetition corporate governance structure.  
2 Highland filed bankruptcy October 16, 2019. Contentiousness  
3 with the Creditors' Committee began immediately, with first  
4 the Committee's request for a change of venue from Delaware to  
5 Dallas, and then a desire by the Committee and the U.S.  
6 Trustee for a Chapter 11 or 7 trustee to be appointed due to  
7 concerns over and distrust of Mr. Dondero and his numerous  
8 conflicts of interest and alleged mismanagement or worse.

9 After many weeks of the threat of a trustee lingering, the  
10 Debtor and the Creditors' Committee negotiated and the Court  
11 approved a corporate governance settlement on January 9, 2020  
12 that resulted in Mr. Dondero no longer being an officer or  
13 director of the Debtor or of its general partner, Strand.

14 As part of the court-approved settlement, three eminently-  
15 qualified Independent Directors were chosen by the Creditors'  
16 Committee and engaged to lead Highland through its Chapter 11  
17 case. They were James Seery, John Dubel, and Retired  
18 Bankruptcy Judge Russell Nelms. They were technically the  
19 Independent Directors of Strand, the general partner of the  
20 Debtor. Mr. Dondero had previously been the sole director of  
21 Strand, and thus the sole person in ultimate control of the  
22 Debtor.

23 The three independent board members' resumes are in  
24 evidence. James Seery eventually was named CEO of the Debtor.  
25 Suffice it to say that this changed the entire trajectory of

1 the case. This saved the Debtor from a trustee. The Court  
2 trusted the new directors. The Creditors' Committee trusted  
3 them. They were the right solution at the right time.

4 Because of the unique character of the Debtor's business,  
5 the Court believed this solution was far better than a  
6 conventional Chapter 7 or 11 trustee. Mr. Seery, in  
7 particular, knew and had vast experience at prominent firms  
8 with high-yield and distressed investing similar to the  
9 Debtor's business. Mr. Dubel had 40 years of experience  
10 restructuring large, complex businesses and serving on their  
11 boards of directors in this context. And Retired Judge Nelms  
12 had not only vast bankruptcy experience but seemed  
13 particularly well-suited to help the Debtor maneuver through  
14 conflicts and ethical quandaries.

15 By way of comparison, in the Chapter 11 case of Acis, the  
16 former affiliate of Highland that this Court presided over two  
17 or three years ago, which company was much smaller in size and  
18 scope than Highland, managing only five or six CLOs, a Chapter  
19 11 trustee was elected by the creditors that was not on the  
20 normal rotation panel for trustees in this district, but  
21 rather was a nationally-known bankruptcy attorney with more  
22 than 45 years of large Chapter 11 case experience. This  
23 Chapter 11 trustee performed valiantly, but was sued by  
24 entities in the Highland complex shortly after he was  
25 appointed, which this Court had to address. The Acis trustee

1 could not get Highland and its affiliates to agree to any  
2 actions taken in the case, and he finally obtained  
3 confirmation of a plan over Highland and its affiliates'  
4 objections in his fourth attempted plan, which confirmation  
5 then was promptly appealed by Highland and its affiliates.

6 Suffice it to say it was not easy to get such highly-  
7 qualified persons to serve as independent board members and  
8 CEO of this Debtor. They were stepping into a morass of  
9 problems. Naturally, they were worried about getting sued, no  
10 matter how defensible their efforts might be, given the  
11 litigation culture that enveloped Highland historically. It  
12 seemed as though everything always ended in litigation at  
13 Highland.

14 The Court heard credible testimony that none of them would  
15 have taken on the role of Independent Director without a good  
16 D&O insurance policy protecting them, without indemnification  
17 from Strand, guaranteed by the Debtor; without exculpation for  
18 mere negligence claims; and without a gatekeeper provision,  
19 such that the Independent Directors could not be sued without  
20 the bankruptcy court, as a gatekeeper, giving a potential  
21 plaintiff permission to sue.

22 With regard to the gatekeeper provision, this was  
23 precisely analogous to what bankruptcy trustees have pursuant  
24 to the so-called "Barton Doctrine," which was first  
25 articulated in an old U.S. Supreme Court case.

1           The Bankruptcy Court approved all of these protections in  
2 a January 9, 2020 order. No one appealed that order. And Mr.  
3 Dondero signed the settlement agreement that was approved by  
4 that order.

5           An interesting fact about the D&O policy came out in  
6 credible testimony at the confirmation hearing. Mr. Dubel and  
7 an insurance broker from Aon, named Marc Tauber, both credibly  
8 testified that the gatekeeper provision was needed because of  
9 the so-called, and I quote, "Dondero Exclusion" in the  
10 insurance marketplace.

11           Specifically, the D&O insurers in the marketplace did not  
12 want to cover litigation claims that might be brought against  
13 the Independent Directors by Mr. Dondero because the  
14 marketplace of D&O insurers are aware of Mr. Dondero's  
15 litigiousness. The insurers would not have issued a D&O  
16 policy to the Independent Directors without either the  
17 gatekeeping provision or a "Dondero Exclusion" being in the  
18 policy.

19           Thus, the gatekeeper provision was part of the January 9,  
20 2020 settlement. There was a sound business justification for  
21 it. It was reasonable and necessary. It was consistent with  
22 the Barton Doctrine in an extremely analogous situation --  
23 *i.e.*, the independent board members were analogous to a three-  
24 headed trustee in this case, if you will. Mr. Dondero signed  
25 off on it. And, again, no one ever appealed the order

1 approving it.

2 The Court finds that, like the Creditors' Committee, the  
3 independent board members here have been resilient and  
4 unwavering in their efforts to get the enormous problems in  
5 this case solved. They seem to have at all times negotiated  
6 hard and with good faith. As noted previously, they changed  
7 the entire trajectory of this case.

8 Still another reason why this was not your garden-variety  
9 case was the mediation effort. In summer of 2020, roughly  
10 nine months into the Chapter 11 case, this Court ordered  
11 mediation among the Debtor, Acis, UBS, the Redeemer Committee,  
12 and Mr. Dondero. The Court selected co-mediators, since this  
13 seemed like such a Herculean task, especially during COVID-19,  
14 where people could not all be in the same room. Those co-  
15 mediators were Retired Bankruptcy Judge Allan Gropper from the  
16 Southern District of New York, who had a distinguished career  
17 presiding over complex Chapter 11 cases, and Ms. Sylvia Mayer,  
18 who likewise has had a distinguished career, first as a  
19 partner in a preeminent law firm working on complex Chapter 11  
20 cases, and subsequently as a mediator and arbitrator in  
21 Houston, Texas.

22 As noted earlier, the Acis claim was settled during the  
23 mediation, which seemed nothing short of a miracle to this  
24 Court, and the UBS claim was settled many months later, and  
25 this Court believes the groundwork for that ultimate

1 settlement was laid, or at least helped, through the  
2 mediation. And as earlier noted, other enormous claims have  
3 been settled during this case, including that of the Redeemer  
4 Committee, who, again, had asserted approximately or close to  
5 a \$200 million claim; HarbourVest, who asserted a \$300 million  
6 claim; and Patrick Daugherty, who asserted close to a \$40  
7 million claim.

8 This Court cannot stress strongly enough that the  
9 resolution of these enormous claims and the acceptance of all  
10 of these creditors of the Plan that is now before the Court  
11 seems nothing short of a miracle. It was more than a year in  
12 the making.

13 Finally, a word about the current remaining Objectors to  
14 the Plan before the Court. Once again, the Court will use the  
15 phrase "not garden-variety." Originally, there were over one  
16 dozen objections filed to this Plan. The Debtor has made  
17 various amendments or modifications to the Plan to address  
18 some of these objections. The Court finds that none of these  
19 modifications require further solicitation, pursuant to  
20 Sections 1125, 1126, 1127 of the Code, or Bankruptcy Rule  
21 3019, because, among other things, they do not materially  
22 adversely change the treatment of the claims of any creditor  
23 or interest holder who has not accepted in writing the  
24 modifications.

25 Among other things, there were changes to the projections



1 that the Debtor filed shortly before the confirmation hearing  
2 that, among other things, show the estimated distribution to  
3 creditors and compare plan treatment to a likely disbursement  
4 in a Chapter 7.

5 These do not constitute a materially adverse change to the  
6 treatment of any creditors or interest holders. They merely  
7 update likely distributions based on claims that have now been  
8 settled, and they've otherwise incorporated more recent  
9 financial data. This happens often before confirmation  
10 hearings. The Court finds that it did not mislead or  
11 prejudice any creditors or interest holders, and certainly  
12 there was no need to resolicit the Plan.

13 The only Objectors to the Plan left at this time were Mr.  
14 Dondero and entities that the Court finds are controlled by  
15 him. The standing of these entities to object to the Plan  
16 exists, but the remoteness of their economic interest is  
17 noteworthy, and the Court questions the good faith of the  
18 Objectors. In fact, the Court has good reason to believe that  
19 these parties are not objecting to protect economic interests  
20 they have in the Debtor, but to be disruptors.

21 Mr. Dondero wants his company back. This is  
22 understandable. But it's not a good faith basis to lob  
23 objections to the Plan. The Court has slowed down  
24 confirmation multiple times on the current Plan and urged the  
25 parties to talk to Mr. Dondero. The parties represent that

1 they have, and the Court believes that they have.

2 Now, to be specific about the remoteness of the objectors'  
3 interests, the Court will address them each separately.

4 First, Mr. Dondero has a pending objection. Mr. Dondero's  
5 only economic interest with regard to the Debtor at this point  
6 is an unliquidated indemnification claim. And based on  
7 everything this Court has heard, his indemnification claim  
8 will be highly questionable at this juncture.

9 Second, a joint objection has been filed by the Dugaboy  
10 Trust and the Get Good Trust. As for the Dugaboy Trust, it  
11 was created to manage the assets of Mr. Dondero and his  
12 family, and it owns a 0.1866 percent limited partnership  
13 interest in the Debtor. The Court is not clear what economic  
14 interest the Get Good Trust has, but it likewise seems to be  
15 related to Mr. Dondero, and it has been represented to the  
16 Court numerous times that the trustee is Mr. Dondero's college  
17 roommate.

18 Another group of Objectors that has joined together in one  
19 objection is what the Court will refer to as the Highland and  
20 NexPoint Advisors and Funds. The Court understands they  
21 assert disputed administrative expense claims against the  
22 estate. While the evidence presented was that they have  
23 independent board members that run these companies, the Court  
24 was not convinced of their independence from Mr. Dondero.  
25 None of the so-called independent board members of these

1 entities have ever testified before the Court. Moreover, they  
2 have all been engaged with the Highland complex for many  
3 years.

4 The witness who testified on these Objectors' behalves at  
5 confirmation, Mr. Jason Post, their chief compliance officer,  
6 resigned from Highland after more than twelve years in October  
7 2020, at the same time that Mr. Dondero resigned or was  
8 terminated by Highland. And a prior witness recently for  
9 these entities whose testimony was made part of the record at  
10 the confirmation hearing essentially testified that Mr.  
11 Dondero controlled these entities.

12 Finally, various NexBank entities objected to the Plan.  
13 The Court does not believe they have liquidated claims. Mr.  
14 Dondero appears to be in control of these entities as well.

15 To be clear, the Court has allowed all of these objectors  
16 to fully present arguments and evidence in opposition to  
17 confirmation, even though their economic interests in the  
18 Debtor appear to be extremely remote and the Court questions  
19 their good faith. Specifically on that latter point, the  
20 Court considers them all to be marching pursuant to the orders  
21 of Mr. Dondero.

22 In the recent past, Mr. Dondero has been subject to a TRO  
23 and preliminary injunction by the Bankruptcy Court for  
24 interfering with the current CEO's management of the Debtor in  
25 specific ways that were supported by evidence. Around the

1 time that this all came to light and the Court began setting  
2 hearings on the alleged interference, Mr. Dondero's company  
3 phone supplied to him by Highland, which he had been asked to  
4 turn in, mysteriously went missing. The Court merely mentions  
5 this in this context as one of many reasons that the Court has  
6 to question the good faith of Mr. Dondero and his affiliated  
7 objectors.

8 The only other pending objection besides these objections  
9 of the Dondero and Dondero-controlled entities is an objection  
10 of the United States Trustee pertaining to the release,  
11 exculpation, and injunction provisions in the Plan.

12 In juxtaposition to these pending objections, the Court  
13 notes that the Debtor has resolved earlier-filed objections to  
14 the Plan filed by the IRS, Patrick Daugherty, CLO Holdco,  
15 Ltd., numerous local taxing authorities, and certain current  
16 and former senior-level employees of the Debtor.

17 With that rather detailed factual background addressed,  
18 because certainly context matters here, the Court now  
19 addresses what it considers the only serious objections raised  
20 in connection with confirmation. Specifically, the Plan  
21 contain certain releases, exculpation, plan injunctions, and a  
22 gatekeeper provision which are obviously not fully consensual,  
23 since there are objections. Certainly, these provisions are  
24 mostly consensual when you consider that parties with hundreds  
25 of millions of dollars' worth of legitimate claims have not

1 objected to them.

2 First, a word about plan releases generally, since the  
3 Objectors at times seem to gloss over, in this Court's view,  
4 relevant distinctions, and seem to refer to the plan releases  
5 in this Plan and the exculpations and the plan injunctions all  
6 as impermissible third-party releases, when, in fact, they are  
7 not, *per se*.

8 It has, without a doubt, become quite commonplace in  
9 complex Chapter 11 bankruptcy cases to have three categories  
10 of releases in plans. These three types are as follows.

11 First, Debtor Releases. A debtor release involves a  
12 release by the debtor and its bankruptcy estate of claims  
13 against nondebtor third-parties. For example, a release may  
14 be granted in favor of creditors, directors, officers,  
15 employees, professionals who participated in the bankruptcy  
16 process. This is the least-controversial type of release  
17 because the debtor is extinguishing its own claims, which are  
18 property of the estate, that a debtor has authority to utilize  
19 or not, pursuant to Sections 541 and 363 of the Bankruptcy  
20 Code.

21 Authority for a debtor release pursuant to a plan arises  
22 out of Section 1123(b) (3) (A), which indicates that a plan may  
23 provide for "the settlement or adjustment of any claim or  
24 interest belonging to the debtor or to the estate."

25 In this context, it would appear that the only analysis

1 required is to determine whether the release or settlement of  
2 the claim is an exercise of reasonable business judgment on  
3 that part of the debtor, is it fair and equitable, is it in  
4 the best interest of the estate, given all the relevant facts  
5 and circumstances? Also relevant is whether there's  
6 consideration given of some sort by the releasees.

7 Now, the second type of very commonplace Chapter 11 plan  
8 release is an exculpation. Chapter 11 plans also very often  
9 have these exculpation provisions, and they're something much  
10 narrower in scope and time than a full-fledged release. An  
11 exculpation provision is more like a shield for a certain  
12 subset of key actors in the case for their acts during and in  
13 connection with the case, which acts may have been merely  
14 negligent.

15 Specifically, a plan may absolve certain actors -- usually  
16 estate fiduciaries -- such as an Official Unsecured Creditors'  
17 Committee and its members, Committee professionals, sometimes  
18 Debtor professionals, senior management, officers and  
19 directors of the Debtor, from any liability for postpetition  
20 negligent conduct -- *i.e.*, conduct which occurred during the  
21 administration of the Chapter 11 case and in the negotiation,  
22 drafting, and implementation of a plan. An exculpation  
23 provision typically excludes gross negligence and willful  
24 misconduct. It is usually worded in a passive voice, so it  
25 may seem a little unclear as to whether it is actually a



1 release and by whom.

2 In any event, the rationale is that parties who actively  
3 participate in a court-approved process -- often, court-  
4 approved transactions by court order -- should receive  
5 protection for their work. Otherwise, who would want to work  
6 in such a messy, contentious situation, only to be sued for  
7 alleged negligence for less-than-perfect end results?

8 Chapter 11 end results are not always pretty. One could  
9 argue that these exculpation provisions, though, are much ado  
10 about nothing. Why? For one thing, again, the shield is only  
11 as to negligent conduct. There is no shield for other  
12 problematic conduct, such as gross negligence or willful  
13 misconduct.

14 Second, in many situations, any claims or causes of action  
15 that might arise will belong to the Debtor or its estate.  
16 Thus, they would already be released pursuant to a debtor  
17 release.

18 Additionally, there is case law stating that, where a  
19 claim is brought against an estate professional whose fees  
20 have already been approved in a final fee application, any  
21 claims are barred by *res judicata*. Thus, exculpated  
22 professionals would only have potential exposure for a very  
23 short window of time, until final fee applications.

24 Additionally, certain case law in Texas makes clear that  
25 an attorney generally does not owe any duties to persons other

1 than his own client.

2 All of this suggests that the shield of a typical  
3 exculpation provision may rarely become useful or needed.

4 Moving now to the third type of release, a true third-  
5 party release, Chapter 11 plans also sometimes contain third-  
6 party releases. A true third-party release involves the  
7 release of claims held by nondebtor third parties against  
8 other nondebtor third parties, and there is often no  
9 limitation on the scope and time of the claims released.

10 This is the most heavily scrutinized of the three types of  
11 plan releases. Much of the case authority focuses on whether  
12 a third-party release is consensual or not in analyzing their  
13 propriety and/or enforceability.

14 In Highland, there are no third-party releases. Rather,  
15 there are debtor releases and exculpations. There also happen  
16 to be plan injunctions and gatekeeper provisions that have  
17 been challenged. The Objectors argue that these provisions  
18 violate the Fifth Circuit's opinion in *Pacific Lumber* or are  
19 otherwise beyond the jurisdiction or authority of the  
20 bankruptcy court. These arguments are now addressed.

21 First, the debtor release is found at Article IX.D of the  
22 Plan. The language, in pertinent part, reads as follows. "On  
23 and after the effective date, each Released Party is deemed to  
24 be hereby conclusively, absolutely, unconditionally,  
25 irrevocably, and forever released and discharged by the Debtor

1 and the Estate, in each case on behalf of themselves and their  
2 respective successors, assigns, and representatives, including  
3 but not limited to the Claimant Trust and the Litigation Sub-  
4 Trust, from any and all causes of action, including any  
5 derivative claims, asserted on behalf of the Debtor, whether  
6 known or unknown, foreseen or unforeseen, matured or  
7 unmatured, existing or hereafter arising, in law, equity,  
8 contract, tort, or otherwise, that the Debtor or the Estate  
9 would have been legally entitled to assert in their own right,  
10 whether individually or collectively, or on behalf of the  
11 holder of any claim against, or interest in, a debtor or other  
12 person."

13       There are certain exceptions discussed, and then Released  
14 Parties are defined at Definition 113 of the Plan collectively  
15 as: the Independent Directors; Strand, solely from the date  
16 of the appointment of the Independent Directors through the  
17 effective date; the CEO/CRO; the Committee, the members of the  
18 Committee, in their official capacities; the professionals  
19 retained by the Debtor and the Committee in the Chapter 11  
20 case; and the employees. This is a defined term in the Plan  
21 Supplement and does not include certain employees.

22       To be clear, these are not third-party releases such as  
23 addressed in the *Pacific Lumber* case. These are the Debtor's  
24 and/or the bankruptcy estate's causes of action that are  
25 proposed to be released. Releases by a debtor are

1 discretionary and can be provided by a debtor to persons who  
2 have provided consideration to the debtor and the estate.  
3 Section 1123(b)(3)(A) of the Bankruptcy Code permits this.

4 The evidence here supported the notion that these releases  
5 are a *quid pro quo* for the Released Parties' significant  
6 contributions to a highly complex and contentious  
7 restructuring. The Debtor is releasing its own claims. Some  
8 of the Released Parties would have indemnification rights  
9 against the Debtor. And the Debtor's CEO, James Seery,  
10 credibly testified that he does not believe any claims exist  
11 as to the Released Parties. The Court approves the Debtor  
12 releases and overrules the objections to them.

13 Next, the exculpations appear at Article IX.C of the Plan  
14 and provide as follows: Subject in all respects to Article  
15 XII.D of the Plan, to the maximum extent permitted by  
16 applicable law, no Exculpated Party will have or incur, and  
17 each Exculpated Party is hereby exculpated from, any claim,  
18 obligation, suit, judgment, damage, demand, debt, right, cause  
19 of action, remedy, loss, and liability for conduct occurring  
20 on or after the petition date in connection with or arising  
21 out of the filing and administration of the Chapter 11 case,  
22 the negotiation and pursuit of a disclosure statement, the  
23 Plan, or the solicitation of votes for or confirmation of the  
24 Plan, the funding or consummation of the Plan, or any related  
25 agreements, instruments, et cetera, et cetera, whether or not

1 such Plan distributions occur following the effective date,  
2 the implementation of the Plan, and any negotiation,  
3 transactions, and documentation in connection with the  
4 foregoing clauses, provided, however, the foregoing will not  
5 apply to any acts or omissions of any Exculpated Party arising  
6 out of or related to acts or omissions that constitute bad  
7 faith, fraud, gross negligence, criminal misconduct, or  
8 willful misconduct; or Strand or any employee other than with  
9 respect to actions taken by such entities from the date of  
10 appointment of the Independent Directors through the effective  
11 date.

12 Exculpated Parties are later defined at Section -- or,  
13 earlier defined at Section 62 of the Plan, Definition No. 62  
14 of the Plan, as later limited by the Debtor, as announced in  
15 the confirmation hearing. And so these are the Exculpated  
16 Parties: the Debtor and its successors and assigns; the  
17 employees, certain employees, as defined; Strand; the  
18 Independent Directors; the Committee, the members of the  
19 Committee, in their official capacities; the professionals  
20 retained by the Debtor and the Committee in the Chapter 11  
21 case; the CEO and CRO; and the related persons as to each of  
22 these parties listed in Part (iv) through (viii) above;  
23 provided, for the avoidance of doubt, and it goes on to say  
24 Dondero, Mark Okada, and various others aren't Exculpated  
25 Parties.

1 Now, as earlier mentioned, the Objectors argue that  
2 *Pacific Lumber*, 584 F.3d 229, a Fifth Circuit case from 2009,  
3 categorically rejects the permissibility of nonconsensual  
4 exculpations as well as third-party releases in a Chapter 11  
5 plan. So the Court is going to take a deep dive into that  
6 assertion.

7 In *Pacific Lumber*, the Fifth Circuit reviewed on appeal  
8 numerous challenges to a confirmed plan of affiliated debtors  
9 known as Palco and Scopac and four subsidiaries. The debtor  
10 Palco owned and operated the sawmill, a power plant, and even  
11 a town called Scotia, California. The debtor Scopac owned  
12 timberlands. A creditor, a secured creditor called Marathon  
13 had a claim against Palco's assets. Marathon estimated  
14 Palco's assets were worth \$110 million. Its claim was \$160  
15 million. Meanwhile, other parties had large secured claims  
16 against the other debtor, Scopac.

17 The plan that the bankruptcy court confirmed, which was on  
18 appeal to the Fifth Circuit, was filed by both the secured  
19 creditor Marathon and a joint plan proponent called MRC. MRC  
20 was a competitor of the debtor Palco. The Marathon/MRC plan  
21 proposed to dissolve all the debtors, cancel intercompany  
22 debts, and create two new entities, Townco and Newco. Almost  
23 all of the debtor Palco's assets, including the town of  
24 Scotia, California, would be transferred to Townco. The  
25 timberlands and other assets, including the sawmill, would be



1 placed in Newco.

2 Marathon and MRC proposed to contribute \$580 million to  
3 Newco to pay claims against Scopac. And Marathon would  
4 convert its secured claim against Palco's assets into equity,  
5 giving it full ownership of Townco, a 15 percent stake in  
6 Newco, and a new note for the sawmill's working capital. MRC  
7 would own the other 80 percent of Newco and would manage and  
8 run the company.

9 An indenture trustee for the secured indebtedness against  
10 Scopac -- which, by the way, had also been a plan proponent of  
11 a competing plan -- appealed the confirmation order, raising  
12 eight distinct issues on appeal. One of the eight issues  
13 pertained to what the Fifth Circuit referred to as a  
14 "nondebtor exculpation and release clause." This issue is  
15 discussed on the last two pages of a very lengthy opinion.

16 While the complained-of provision is not quoted verbatim  
17 in the *Pacific Lumber* opinion, it appears to have been a  
18 typical exculpation clause. Not a third-party release; a  
19 typical exculpation clause. The Fifth Circuit stated, "The  
20 plan releases MRC, Marathon, Newco, Townco, and the Unsecured  
21 Creditors' Committee, and their personnel, from liability,  
22 other than for willful and gross negligence related to  
23 proposing, implementing, and administering the plan" at Page  
24 251.

25 The Fifth Circuit held that "the nondebtor releases must

1 be struck except with respect to the Creditors' Committee and  
2 its members."

3 Footnote 26 of the opinion also states that the appellants  
4 had "not briefed why Newco and Townco or their officers and  
5 directors should not be released," and so "we do not analyze  
6 their position." Rather, the Fifth Circuit merely analyzed  
7 why the exculpation provision was not permissible as to the  
8 two plan proponents, MRC and Marathon.

9 Thus, the Court views *Pacific Lumber* as being a holding  
10 that squarely addressed the propriety of two plan proponents,  
11 a secured lender and a third-party competitor purchaser of the  
12 Debtors, obtaining nonconsensual exculpation in the plan.  
13 However, its reasoning certainly cannot be ignored, strongly  
14 suggesting it would not be inclined to approve an exculpation  
15 for any party other than a Creditors' Committee or its  
16 members.

17 As far as the Fifth Circuit's reasoning, it relied on  
18 Bankruptcy Code Section 524(e) for striking down the  
19 exculpations, stating, "The law states, however, that  
20 discharge of a debt of the debtor does not affect the  
21 liability of any other entity on such debt." Page 251. The  
22 opinion suggests that MRC and Marathon may have tried to argue  
23 that 524(e) did not apply to their exculpations because MRC  
24 and Marathon were not liable as co-obligors in any way on any  
25 of the debtor's debt.

1           The Fifth Circuit seemed dismissive of this argument,  
2           stating as follows, "MRC/Marathon insist the release clause is  
3           part of their bargain because, without the clause, neither  
4           company would have been willing to provide the plan's  
5           financing. Nothing in the records suggests that MRC/Marathon,  
6           the Committee, or the Debtor's officers and directors were co-  
7           liable for the Debtor's prepetition debts. Instead, the  
8           bargain the proponents claim to have purchased is exculpation  
9           from any negligence that occurred during the course of the  
10          case. Any costs the released parties might incur defending  
11          against suits alleging such negligence are unlikely to swamp  
12          either of these parties or the consummated reorganization. We  
13          see little equitable about protecting the released nondebtors  
14          from negligence suits arising out of the reorganization."

15          The Court goes on to note that, in a variety of cases,  
16          that releases have been approved, but these cases "seem  
17          broadly to foreclose nonconsensual nondebtor releases and  
18          permanent injunctions."

19          The Court then adds at Footnote 27 that the Fifth Circuit  
20          in the past did not set aside challenged plan releases that  
21          were in final nonappealable orders and were the subject of  
22          collateral attack much later, citing its famous *Republic*  
23          *Supply v. Shoaf* case, where the Fifth Circuit ruled that *res*  
24          *judicata* barred a debtor from bringing a claim that was  
25          specifically and expressly released by a confirmed

1 reorganization plan because the debtor -- the objector failed  
2 to object to the release at confirmation.

3       The Fifth Circuit in *Pacific Lumber* also noted that the  
4 Bankruptcy Code permits bankruptcy courts to enjoin third-  
5 party asbestos claims under certain circumstances, 524(g),  
6 which the Court said suggests nondebtor releases are most  
7 appropriate as a method to channel mass tort claims towards a  
8 specific pool of assets, citing numerous cases, including  
9 *Johns-Manville*.

10       In reach its holding, the Fifth Circuit saw no reason to  
11 uphold exculpation to the plan proponents MRC and Marathon,  
12 seeming to find it inconsistent with 524(e) under the facts at  
13 bar, but the Court did uphold exculpation for the Creditors'  
14 Committee and its members, stating, "We agree, however, with  
15 courts that have held that 1103(c) under the Code, which lists  
16 the Creditors' Committee's powers, implies Committee members  
17 have qualified immunity for actions within the scope of their  
18 duties." Numerous cites. "The Creditors' Committee and its  
19 members are the only disinterested volunteers among the  
20 parties sought to be released here. The scope of protection,  
21 which does not insulate them from willful and gross  
22 negligence, is adequate."

23       Thus, the Court held that the exculpation provisions in  
24 *Pacific Lumber* must be struck except with regard to the  
25 Creditors' Committee and its members.

1 Now, after all of that, this Court believes the following  
2 can be gleaned from *Pacific Lumber*. First, the Fifth Circuit  
3 hinted that consensual exculpations and/or consensual  
4 nondebtor third-party releases are permissible. The Court  
5 was, of course, dealing with nonconsensual exculpations in  
6 *Pacific Lumber*. In this regard, I note Page 252, where the  
7 Court cited various prior Fifth Circuit authority and then  
8 stated, "These cases seem broadly to foreclose nonconsensual  
9 nondebtor releases and permanent injunctions."

10 The second thing that can be gleaned from *Pacific Lumber*:  
11 The Fifth Circuit hinted that nondebtor releases may be  
12 permissible in cases involving global settlements of mass  
13 claims against the debtors and co-liable parties. The Court,  
14 of course, referred to 524(g), but various other cases which  
15 approved nondebtor releases where mass claims were channeled  
16 to a specific pool of assets.

17 Third, the Fifth Circuit outright held that exculpations  
18 from negligence for a Creditors' Committee and its members are  
19 permissible because the concept is both consistent with  
20 1103(c), "which implies Committee members have qualified  
21 immunity for actions within the scope of their duties," and a  
22 good policy result, since "if members of the Committee can be  
23 sued by persons unhappy with the outcome of the case, it will  
24 be extremely difficult to find members to serve on an official  
25 committee."

1 Fourth, the Fifth Circuit recognized in *Pacific Lumber*  
2 that *res judicata* may bar complaints regarding an  
3 impermissible plan release, citing to its earlier *Republic*  
4 *Supply v. Shoaf* opinion.

5 Now, being ever-mindful of the Fifth Circuit's words in  
6 *Pacific Lumber*, this Court cannot help but wonder about at  
7 least three things.

8 First, did the Fifth Circuit leave open the door that  
9 facts/equities might sometimes justify approval of an  
10 exculpation for a person other than a Creditors' Committee and  
11 its members? For example, the Fifth Circuit stated, in  
12 referring to the plan proponents Marathon and MRC, that "Any  
13 costs the released parties might incur defending against suits  
14 alleging such negligence are unlikely to swamp either of these  
15 parties or the consummated reorganization." Here, this Court  
16 can easily expect the proposed exculpated parties to incur  
17 costs that could swamp them and the reorganization based on  
18 the past litigious conduct of Mr. Dondero and his controlled  
19 entities. Do these words of the Fifth Circuit hint that  
20 equities/economics might sometimes justify an exculpation?

21 Second, did the Fifth Circuit's rationale for permitted  
22 exculpations to Creditors' Committee and their members, which  
23 was clearly policy-based, based on their implied qualified  
24 immunity flowing from their duties in Section 1103 and their  
25 disinterestedness, and the importance of their role in a



1 Chapter 11 case, did this rationale leave open the door to  
2 sometimes permitting exculpations to other parties in a  
3 particular Chapter 11 case besides Creditors' Committees and  
4 their members? For example, in a situation such as the  
5 Highland case, in which Independent Directors, brought in to  
6 avoid a trustee, are more like a Creditors' Committee than an  
7 incumbent board of directors.

8 Third, the Fifth Circuit's sole statutory basis was  
9 Section 524(e). This Court would humbly submit that this is a  
10 statute dealing with prepetition liability in which some  
11 nondebtor is liable with the Debtor. Exculpation is a concept  
12 dealing with postpetition liability.

13 The Ninth Circuit recently, in a case called *Blixseth v.*  
14 *Credit Suisse*, 961 F.3d 1074 (9th Cir. 2020), approved the  
15 validity of an exculpation clause incorporated into a  
16 confirmed Chapter 11 plan that purported to absolve certain  
17 nondebtor parties that were "closely involved" in drafting the  
18 plan. They were the largest secured creditor, a purchaser,  
19 and an individual who was an indirect owner of certain of the  
20 debtor companies. The exculpation was from any negligence,  
21 liability, for "any act or omission in connection with,  
22 related to, or arising out of the Chapter 11 cases."

23 By the time the appeal was before the Ninth Circuit, the  
24 only issue was the propriety of the exculpation clause as to  
25 the large secured creditor, which was also a plan proponent,

1 since all the other exculpated parties had settled with the  
2 appellant.

3 The Court, in determining that the exculpation clause was  
4 permissible as to the secured lender, concluded that Section  
5 524(e) "does not bar a narrow exculpation clause of the kind  
6 here at issue -- that is, one focused on actions of various  
7 participants in the plan approval process and relating only to  
8 that process," Page 1082. Why? Because "Section 524(e)  
9 establishes that discharge of a debt of the debtor does not  
10 affect the liability of any other entity on such debt." In  
11 other words, the discharge in no way affects the liability of  
12 any other entity for the discharged debt. By its terms,  
13 524(e) prevents a bankruptcy court from extinguishing claims  
14 of creditors against nondebtors over the very discharged debt  
15 through the bankruptcy proceedings.

16 The Court went on to explicitly disagree with *Pacific*  
17 *Lumber* in its analysis of 524(e), reiterating that an  
18 exculpation clause covers only liabilities arising from the  
19 bankruptcy proceedings and not of any of the debtor's  
20 discharged debt. Footnote 7, Page 1085.

21 Ultimately, the Court held that under Section 105(a),  
22 which empowers a bankruptcy court to issue any order, process,  
23 or judgment that is necessary or appropriate to carry out the  
24 provisions of Chapter 11 and Section 1123, which establishes  
25 the appropriate content of the bankruptcy plan, under these

1 sections, the bankruptcy court had authority to approve an  
2 exculpation clause intended to trim subsequent litigation over  
3 acts taken during the bankruptcy proceedings and so render the  
4 plan viable.

5 This Court concludes that, just as the Fifth Circuit left  
6 open the door for consensual exculpations and releases in  
7 *Pacific Lumber*, just as it left open the door for consensual  
8 exculpations and releases in *Pacific Lumber*, its dicta  
9 suggests that an exculpation might be permissible if there is  
10 a showing that "costs that the released parties might incur  
11 defending against suits alleging such negligence are likely to  
12 swamp either the Exculpated Parties or the reorganization."  
13 Again, that was a quote from the Fifth Circuit.

14 If ever there were a risk of that happening in a Chapter  
15 11 reorganization, it is this one. The Debtor's current CEO  
16 credibly testified that Mr. Dondero has said outside the  
17 courtroom that if Mr. Dondero's own pot plan does not get  
18 approved, that he will "burn the place down." Here, this  
19 Court can easily expect the proposed exculpated parties might  
20 expect to incur costs that could swamp them and the  
21 reorganization process based on the past litigious conduct of  
22 Mr. Dondero and his controlled entities.

23 Additionally, this Court concludes that the Fifth  
24 Circuit's rationale in *Pacific Lumber* for permitted  
25 exculpations to Creditors' Committees and their members, which

1 was clearly policy-based based on their implied qualified  
2 immunity flowing from Section 1103 and their importance in a  
3 Chapter 11 case, leaves the door open to sometimes permitting  
4 exculpations to other parties in a particular Chapter 11 case  
5 besides a UCC and its members.

6 Again, if there was ever such a case, the Court believes  
7 it is this one, in which Independent Directors were brought in  
8 to avoid a trustee and are much more like a Creditors'  
9 Committee than an incumbent board of directors. While,  
10 admittedly, there are a few exculpated parties here proposed  
11 beyond the independent board, such as certain employees, it  
12 would appear that no one is invulnerable to a lawsuit here if  
13 past is prologue in this Highland saga.

14 The Creditors' Committee was initially not keen on  
15 exculpations for certain employees. However, Mr. Seery  
16 credibly testified that there was a contentious arm's-length  
17 negotiation over this and that he needs these employees to  
18 preserve value implementing the Plan. Mr. Dondero has shown  
19 no hesitancy to litigate with former employees in the past, to  
20 the *nth* degree, and there is every reason to believe he would  
21 again in the future, if able.

22 Finally, in this situation, in the case at bar, we would  
23 appear to have a *Shoaf* reason to approve the exculpations.  
24 The January 9, 2020 order of this Court, Docket Entry 339,  
25 which approved the independent board and an ongoing corporate

1 governance structure for this case, and which is incorporated  
2 into the Plan at Article IX.H, provided as follows: "No  
3 entity may commence or pursue a claim or cause of action of  
4 any kind against any Independent Director, any Independent  
5 Director's agents, or any Independent Director's advisors  
6 relating in any way to the Independent Director's role as an  
7 Independent Director of Strand without the Court (1) first  
8 determining, after notice, that such claim or cause of action  
9 represents a colorable claim of willful misconduct or gross  
10 negligence against Independent Director, any Independent  
11 Director's agents, or any Independent Director's advisors; and  
12 (2) specifically authorizing such entity to bring such a  
13 claim. The Court will have sole jurisdiction to adjudicate  
14 any claim for which approval of the Court to commence or  
15 pursue has been granted."

16 This was both an exculpation from negligence as to the  
17 Independent Directors and their agents and advisors, as well  
18 as a gatekeeping provision. This Court believes that this  
19 provision basically approved an exculpation for the  
20 Independent Directors way back on January 9, 2020 for their  
21 postpetition conduct that might be negligent. And this is the  
22 law of the case and has *res judicata* preclusive effect now.

23 Thus, as to the three Independent Directors, as well as  
24 the other named parties in the January 9, 2020 order, their  
25 agents, their advisors, we have a situation that fits within

1 *Republic Supply v. Shoaf*, and we fit within the exception  
2 articulated in *Pacific Lumber*.

3 The Court reserves the right to supplement these findings  
4 and conclusions as to the exculpations, but based on the  
5 foregoing, they are approved and the objections are overruled.

6 Now, turning to the Plan objection, it appears at Article  
7 IX.F of the Plan and provides, in pertinent part, as follows:  
8 Upon entry of the confirmation order, all enjoined parties are  
9 and shall be permanently enjoined on and after the effective  
10 date from taking any action to interfere with the  
11 implementation or consummation of the Plan. Except as  
12 expressly provided in the Plan, the confirmation order, or a  
13 separate order of the Bankruptcy Court, all Enjoined Parties  
14 are and shall be permanently enjoined on and after the  
15 effective date, with respect to any claims and interests, from  
16 directly or indirectly -- and then commencing, conducting,  
17 continuing any suit, action, proceeding of any kind, and  
18 numerous other acts of that vein.

19 The injunction set forth herein shall extend to and apply  
20 to any act of the type set forth in any of the causes above  
21 against any successors to the Debtor, including but not  
22 limited to the Reorganized Debtor, the Litigation Sub-Trust,  
23 and the Claimant Trust, and their respective property and  
24 interests in property.

25 Plan injunctions like this are commonplace and



1 appropriate. They are entirely consistent with and  
2 permissible under Bankruptcy Code Sections 1123(a)(5),  
3 1123(a)(6), 1141(a) and (c), and 1142, as well as Bankruptcy  
4 Rule 3016(c), which articulates the form that a plan  
5 injunction must be set forth in a plan.

6 The Court finds the objections to the Plan Injunctions to  
7 be unfounded, and they are thus overruled without much  
8 discussion here.

9 Now, lastly, the Gatekeeper Provision. It appears at  
10 Paragraph 4 of Article IX.F of the Plan and provides, in  
11 pertinent part, "Subject in all respects to Article XII.D, no  
12 Enjoined Party may commence or pursue a claim or cause of  
13 action of any kind against any Protected Party that arose or  
14 arises from or is related to the Chapter 11 case, the  
15 negotiation of the Plan, the administration of the Plan, or  
16 property to be distributed under the Plan, the wind-down of  
17 the business of the Debtor or Reorganized Debtor, the  
18 administration of the Claimant Trust or the Litigation Sub-  
19 Trust, or the transactions in furtherance of the foregoing,  
20 without the Bankruptcy Court (1) first determining, after  
21 notice and a hearing, that such claim or cause of action  
22 represents a colorable claim of any kind, including but not  
23 limited to negligence, bad faith, criminal misconduct and  
24 willful misconduct, fraud, or gross negligence against a  
25 Protected Party; and (2) specifically authorizing such

1 Enjoined Party to bring such claim or cause of action against  
2 such Protected Party, provided, however, that the foregoing  
3 will not apply to a claim or cause of action against Strand or  
4 against any employee other than with respect to actions taken,  
5 respectively, by Strand or any such employee from the date of  
6 appointment of the Independent Directors through the effective  
7 date. The Bankruptcy Court will have sole and exclusive  
8 jurisdiction to determine whether a claim or cause of action  
9 is colorable and, only to the extent legally permissible and  
10 as provided for in Article XI, shall have jurisdiction to  
11 adjudicate the underlying colorable claim or cause of action."

12 This gatekeeper provision appears necessary and reasonable  
13 in light of the litigiousness of Mr. Dondero and his  
14 controlled entities that has been described at length herein.  
15 Provisions similar to this have been approved in this district  
16 in the *Pilgrim's Pride* case and the *CHC Helicopter* case. The  
17 provision is within the spirit of the Supreme Court's Barton  
18 Doctrine. And it appears consistent with the notion of a pre-  
19 filing injunction to deter vexatious litigants that has been  
20 approved by the Fifth Circuit in such cases as *Baum v. Blue*  
21 *Moon Ventures*, 513 F.3d 181, and in the *In re Carroll* case,  
22 850 F.3d 811, which arose out of a bankruptcy pre-filing  
23 injunction.

24 The Fifth Circuit, in fact, noted in the *Carroll* case that  
25 federal courts have authority to enjoin vexatious litigants

1 under the All Writs Act, 28 U.S.C. § 1651. And additionally,  
2 under the Bankruptcy Code, a bankruptcy court can issue any  
3 order, including a civil contempt order, necessary or  
4 appropriate to carry out the provisions of the Code, citing,  
5 of course, 105 of the Bankruptcy Code.

6 The Fifth Circuit stated that, when considering whether to  
7 enjoin future filings against a vexatious litigant, a  
8 bankruptcy court must consider the circumstances of the case,  
9 including four factors: (1) the party's history of  
10 litigation; in particular, whether he has filed vexatious,  
11 harassing, or duplicative lawsuits; (2) whether the party had  
12 a good faith basis for pursuing the litigation, or perhaps  
13 intended to harass; (3) the extent of the burden on the courts  
14 and other parties resulting from the party's filings; and (4)  
15 the adequacy of alternatives.

16 In the *Baum* case, the Fifth Circuit stated that the  
17 traditional standards for injunctive relief -- *i.e.*,  
18 irreparable harm and inadequate remedy at law -- do not apply  
19 to the issuance of an injunction against a vexatious litigant.

20 Here, although I have not been asked to declare Mr.  
21 Dondero and his affiliated entities as vexatious litigants *per*  
22 *se*, it is certainly not beyond the pale to find that his long  
23 history with regard to the major creditors in this case has  
24 strayed into that possible realm, and thus this Court is  
25 justified in approving this provision.

1           One of the Objectors' lawyers stated very eloquently in  
2 closing argument, in opposing the plan injunction and  
3 gatekeeping provisions, that "Even a serial killer has  
4 constitutional rights," suggesting that these provisions would  
5 deprive Mr. Dondero and his controlled entities of fundamental  
6 rights or due process somehow. But to paraphrase the district  
7 court in the *Carroll* case, no one, rich or poor, is entitled  
8 to abuse the judicial process. There exists no constitutional  
9 right of access to the courts to prosecute actions that are  
10 frivolous or malicious. The Plan injunction and gatekeeper  
11 provisions in Highland's plan simply set forth a way for this  
12 Court to use its tools, its inherent powers, to avoid abuse of  
13 the court system, protect the implementation of the Plan, and  
14 preempt the use of judicial time that properly could be used  
15 to consider the meritorious claims of other litigants.

16           Accordingly, the Objectors' objections to this provision  
17 are overruled.

18           As earlier stated, this Court reserves the right to alter  
19 or supplement this ruling in a written order. In this regard,  
20 the Court directs Debtor's counsel -- I hope you are still  
21 awake; it's been a long time -- the Court directs Debtor's  
22 counsel to submit a form of order. And specifically, I assume  
23 that you've already prepared or have been in the process of  
24 preparing a set of findings of fact, conclusions of law, and  
25 confirmation order that tracks the confirmation evidence and

1 recites conclusions of law that the Plan complies with all the  
2 various provisions of Section 1123, 1129, and other applicable  
3 Code provisions.

4 What I want you to do is take this bench ruling and add it  
5 to what you've prepared. And what I mean is, as you can tell,  
6 I've been reading: I will have my courtroom deputy email to  
7 you all a copy of what I just read. I'll have her obviously  
8 copy the Debtor's counsel, Creditors' Committee, Dondero and  
9 the other Objectors, copy them on this written document she's  
10 going to send out. And, again, I want you to kind of meld it  
11 into what you've already been preparing.

12 Obviously, I did not address in this oral ruling every  
13 provision of 1129(a) and (b). I did not address every 1123  
14 objection. I did not even address every single objection of  
15 the Objectors. But, again, any objection I've not  
16 specifically addressed today is overruled.

17 The briefing, I should say, that the Debtor submitted,  
18 there was a Memorandum of Law in Support of Confirmation filed  
19 on January 22nd. There was also a reply brief, a hundred  
20 pages or so, separately filed, replying to all the objections.  
21 I don't disagree with anything that was in that. So, again,  
22 to the extent you want to send me conclusions of law that are  
23 along the lines of that briefing, I would consider that.

24 And so what I thought is you'll send me the melded  
25 document and I will edit it if I see fit. I recognize this

1 may take a few days, so I don't give you a strict timetable,  
2 just hopefully it won't take too many days.

3 All right. Is there anyone out there -- Mr. Pomerantz,  
4 you had to go to jury duty, except I can't believe --

5 MR. POMERANTZ: No, I --

6 THE COURT: I can't believe you were called, but are  
7 you there?

8 MR. POMERANTZ: Your Honor, I am here. I was luckily  
9 excused, because I probably wouldn't have made it.

10 Your Honor, one just comment I'd make. You referred to  
11 the January 9th order. You didn't refer to the CEO order,  
12 which is your order July 16th, which had the same gatekeeper  
13 provision. I assume that was the same analysis?

14 THE COURT: That was an oversight. Same analysis.  
15 And that's exactly why I said I reserve the right to  
16 supplement or amend, because I know there had to be places  
17 like that where I omitted to mention something important.

18 MR. POMERANTZ: But thank you, Your Honor, for your  
19 thoughtful ruling, and we will certainly incorporate your  
20 materials into the order that we're working on and get it to  
21 you when we can. But we appreciate it on behalf of the  
22 Debtor. We know this took a lot of time and a lot of effort.  
23 Hopefully, you got a chance to still watch the Super Bowl  
24 yesterday.

25 THE COURT: Well, when I saw that Tom Brady was going



1 to win, I turned it off.

2 I'm sorry. That's terrible. You know, my law clerk, my  
3 law clerk that you can't see, Nate, he is from Ann Arbor,  
4 Michigan, University of Michigan, and he almost cried when I  
5 said I didn't like Tom Brady the other day. So, I apologize.

6 MR. POMERANTZ: Your Honor, one other comment. We  
7 had our motion to assume our nonresidential real property  
8 lease that was also on. It got missed in all the fanfare, but  
9 it was -- it has been unopposed and essentially done pursuant  
10 to stipulation. So we'd like to submit an order on that as  
11 well.

12 THE COURT: Okay. I have seen that, and I approve it  
13 under 365. You may submit the order. Okay. Thank you.

14 MR. POMERANTZ: Thank you, Your Honor.

15 THE CLERK: All rise.

16 (Proceedings concluded at 10:35 a.m.)

17 --oOo--

18

19

20 CERTIFICATE

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

23 **/s/ Kathy Rehling**

**02/09/2021**

24

\_\_\_\_\_  
Kathy Rehling, CETD-444  
Certified Electronic Court Transcriber

\_\_\_\_\_  
Date

25

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# EXHIBIT C

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

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

	)		
In re:	)	Chapter 11	
	)		
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	Case No. 19-34054 (SGJ11)	
	)		
Debtor.	)		
	)		
	)		

**NOTICE OF APPEAL**

COME NOW Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (the “Appellants”), creditors and parties-in-interest in the above styled and numbered bankruptcy case (the “Bankruptcy Case”) of Highland Capital Management, L.P. (the “Debtor”), and, pursuant to 28 U.S.C. § 158(a), hereby appeal to the United States District Court for the Northern District of Texas that certain *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order”) entered by the Bankruptcy Court on February 22, 2021 at docket no. 1943 in the Bankruptcy Case.

A copy of the Confirmation is attached hereto as Exhibit “A.”

The names of the parties to the Confirmation Order, and the contact information for their attorneys, is as follows:

1. Appellants:

Highland Capital Management Fund Advisors, L.P.  
NexPoint Advisors, L.P.

Attorneys:

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Julian P. Vasek  
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2. Appellee:

Highland Capital Management, L.P.

Attorneys:

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[hwinograd@pszjlaw.com](mailto:hwinograd@pszjlaw.com)

RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2021.

**MUNSCH HARDT KOPF & HARR, P.C.**

By: /s/ Davor Rukavina  
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**ATTORNEYS FOR HIGHLAND CAPITAL  
MANAGEMENT FUND ADVISORS, L.P. AND  
NEXPOINT ADVISORS, L.P.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 1st day of March, 2021, true and correct copies of this document were electronically served by the Court's ECF system on parties entitled to notice thereof, including on counsel for the Appellee.

By: /s/ Davor Rukavina  
Davor Rukavina, Esq.



# EXHIBIT D

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

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

	)	
In re:	)	Chapter 11
	)	
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	Case No. 19-34054 (SGJ11)
	)	
Debtor.	)	
	)	
	)	

**STATEMENT BY NEXPOINT ADVISORS, L.P. AND HIGHLAND CAPITAL  
MANAGEMENT FUND ADVISORS, L.P. OF ISSUES ON APPEAL**

COME NOW Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (the “Appellants”), creditors and parties-in-interest in the above styled and numbered bankruptcy case (the “Bankruptcy Case”) of Highland Capital Management, L.P. (the “Debtor”), and, with respect to their *Notice of Appeal* [docket no. 1957], hereby file their *Statement of Issues on Appeal* (the “Statement”).

With respect to the Bankruptcy Court’s *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [docket no. 1943] (the “Confirmation Order”), by which the Bankruptcy Court confirmed

the Debtor's Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) [docket no. 1808], as further modified (the "Plan"):

1. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order under the Absolute Priority Rule codified by 11 U.S.C. § 1129(b)(2)(B)(ii) because the Plan provides that the holders of equity interests, in the form of limited partnership interests in the Debtor, retain or receive any property under the Plan even though Class 8 under the Plan, a class of unsecured creditors not paid in full under the Plan, rejected the Plan?

2. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the exculpation provisions of the Plan, contained in Article IX of the Plan, effectuated:

- (i) third party releases (*i.e.* releasing a claim of a non-debtor against a non-debtor) prohibited by the Bankruptcy Court and over which the Bankruptcy Court had no jurisdiction, in direct violation of Fifth Circuit and Northern District of Texas precedent (*see, e.g., In re Pacific Lumber Co.*, 584 F.3d 229, 253 (5th Cir. 2009) and *In re Thru, Inc.*, Civil Action No. 3:17-CV-1958-G, 2018 WL 5113124, at \*22-23 (N.D. Tex. Oct. 19, 2018) and in violation of due process rights;
- (ii) releases of business decisions, actions, and potential liabilities, as opposed to case administration matters;
- (ii) releases of non-debtor entities and their managers and professionals, as opposed to estate managers and professionals; and
- (iv) releases of post-confirmation matters.

3. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the permanent injunction contained in Article IX of the Plan, which prohibits "taking any actions to interfere with the implementation or consummation of the Plan," is overly broad and impermissibly vague, and because the injunction prohibits the Appellants from advising various funds that they advise and manage, or causing said funds, to

remove the Debtor as CLO portfolio manager over various CLOs that the Debtor manages pursuant to executory contracts assumed by the Plan, even though the assumption of an executory contract subjects, as a matter of law, the Debtor to all provisions of the contract on a go-forward basis?

4. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the “gatekeeper” injunction contained in Article IX of the Plan, which requires leave of the Bankruptcy Court upon a showing of a “colorable” claim or cause of action, is:

- (i) not permitted by the Bankruptcy Code and effectively effectuates prohibited third party releases for the same reasons as stated above with respect to exculpation;
- (ii) not permitted with respect to any post-confirmation matter as the Bankruptcy Court will have no jurisdiction over such matters to make any finding or render any order, which would be purely advisory; and
- (iii) not permitted because it violates due process by requiring a party with a claim to seek leave from a court that has no jurisdiction and, if such leave is not granted, such claim will be permanently enjoined without having a court of competent jurisdiction pass on its merits.

5. Whether the Bankruptcy Court erred as a matter of fact in confirming the Plan and entering the Confirmation Order because the “gatekeeper” injunction contained in Article IX of the Plan, which requires leave of the Bankruptcy Court upon a showing of a “colorable” claim or cause of action, is based on the Bankruptcy Court’s finding of vexatious litigation against the Appellants and the need for an ant-filing or pre-filing injunction, when there was no evidence to support such finding?

6. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the Debtor failed to satisfy the 11 U.S.C. § 1129(a)(2) element for confirmation requiring the Debtor to have complied with all applicable provisions of the Bankruptcy Code, which the Debtor admittedly failed to do because it utterly failed to comply with Bankruptcy Rule 2015.3?

RESPECTFULLY SUBMITTED this 11th day of March, 2021.

**MUNSCH HARDT KOPF & HARR, P.C.**

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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 11th day of March, 2021, true and correct copies of this document were electronically served by the Court's ECF system on parties entitled to notice thereof, including on counsel for the Appellee.

By: /s/ Davor Rukavina  
Davor Rukavina, Esq.

# EXHIBIT E





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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed March 16, 2021

*Henry G. C. George*  
United States Bankruptcy Judge

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

In re:	)	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	)	Case No. 19-34054 (SGJ11)
Debtor.	)	)	

**ORDER CERTIFYING APPEALS OF THE CONFIRMATION ORDER  
FOR DIRECT APPEAL TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

CAME ON FOR CONSIDERATION the *Joint Motion for Certification of Appeals of Confirmation Order for Direct Appeal to the Fifth Circuit* (the "Motion"), filed jointly by Highland Capital Management, L.P., Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., NexPoint Strategic Opportunities Fund, James Dondero, Get Good Trust, and The Dugaboy Investment Trust (collectively, the "Parties").

EXHIBIT E

By the Motion, the Parties jointly request a certification for a direct appeal to the Fifth Circuit of the following appeals (collectively, the “Appeals”) of the Court’s *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [docket no. 1943] (the “Confirmation Order”):

- (i) the notice of appeal filed by Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. on March 1, 2021 at docket no. 1957;
- (ii) the notice of appeal filed by Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., and NexPoint Strategic Opportunities Fund on March 3, 2021 at docket no. 1966;
- (iii) the notice of appeal filed by James Dondero on March 4, 2021 at docket no. 1970; and
- (iv) the notice of appeal filed by Get Good Trust and The Dugaboy Investment Trust on March 4, 2021 at docket no. 1972.

Having considered the Motion, concluding that the Court has core jurisdiction over the Motion, finding that no further notice or hearing on the Motion is required as all parties affected thereby are the Parties to the Motion, and, based on the Parties joint certification and request as provided for in 28 U.S.C. § 158(d)(2)(B), and based also on the Court’s agreement with the factual predicates underlying the Parties’ certification and request, it is hereby:

ORDERED that the Appeals of the Confirmation Order are certified for direct appeal to the Fifth Circuit because a direct appeal may materially advance the progress of the case or proceeding in which the appeal is taken, within the meaning and operation of 28 U.S.C. § 158(d)(2)(A)(iii).

**### END OF ORDER ###**

## **EXHIBIT 14**

Case No. \_\_\_\_\_

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

---

**In re: HIGHLAND CAPITAL MANAGEMENT, L.P.**

**Proposed Appeal of The Dugaboy Investment Trust  
And Get Good Trust**

---

On Appeal from the United States Bankruptcy Court for  
the Northern District of Texas, Dallas Division  
Bankruptcy Case No. 19-34054 (SGJ11)

Appeal Pending as Civil Action No. 3:21-cv-00550-N in the United States District  
Court for the Northern District of Texas, Dallas Division

---

**PETITION FOR DIRECT APPEAL UNDER 28 U.S.C. § 158(d)**

---

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**ATTORNEY FOR PETITIONERS THE DUGABOY  
INVESTMENT TRUST AND GET GOOD TRUST**

## CERTIFICATE OF INTERESTED PERSONS

Undersigned counsel certifies that the following listed persons and entities, as described in the fourth sentence of Rule 28.2.1, have an interest in the outcome of this case. These representations are made so that the judges of this Court may evaluate possible disqualification or recusal:

1. Appellants

**The Dugaboy Investment Trust  
Get Good Trust**

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2. Appellee:

**Highland Capital Management, L.P.**

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3. Other Appellants

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/s/ Douglas S. Draper  
Douglas S. Draper  
Counsel for The Dugaboy Investment  
Trust and Get Good Trust

## INTRODUCTION

The Dubagoy Investment Trust and Get Good Trust (the “Trusts”) respectfully request that the Court grant them permission to appeal, pursuant to Federal Rule of Appellate Procedure 5 and 28 U.S.C. § 158(d)(2)(A), the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified); and (ii) Granting Related Relief* (the “Confirmation Order”)<sup>1</sup> directly to this Court from the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”).

A direct appeal from the Bankruptcy Court to the District Court is authorized pursuant to § 158(d)(2) provided that four conditions are satisfied. It is the position of the Trusts that the conditions for direct appeal are satisfied for the reason set forth herein and in the Petitions filed by Highland Income Fund, NexPoint Stategic Opportunities Fund, Highland Global Allocation Fund, Nexpoint Capital Inc., James Dondero, NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. each of which has filed a Petition for Direct Appeal with this Court.

The Trusts, in support of this Petition, note the following:

- a) The Bankruptcy Court affirmatively held that the direct appeal of the Confirmation Order to this Court will “materially advance the progress of the case”;
- b) The Confirmed Plan contains broad exculpation, release and channeling injunctions (called gatekeeper provisions under the Plan) that are contrary to established precedent in this Court. See *In re Pacific Lumber*, 584 F.3d 220 (5<sup>th</sup> Circuit) and *SEC vs Stanford Bank*, 17-10663 (5<sup>th</sup> Cir. 2019). It is interesting to note that the *In Pacific Lumber* case involved a direct appeal to this Court; and
- c) The Plan that was confirmed by the Court granted protection by analogy to third parties and by analogy applied the Barton Doctrine without any precedent supporting the opinion.

The direct appeal of the Confirmation Order meets the statutory requirements for a direct appeal of the Confirmation Order to this Court.

The Confirmation Order raises questions of law as to the use and effect of exculpation and release provisions and the imposition of a gatekeeper injunction in a bankruptcy plan where there is no controlling precedent from this Court or the Supreme Court.

## BACKGROUND

The Bankruptcy Court on February 21, 2021 entered the Confirmation Order confirming the *Debtor's Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* (the "Plan"). The Plan, in essence, is a liquidation Plan notwithstanding the fact that Highland Capital Management, L.P. ("Debtor") refers to it as a monetization Plan. The Debtor projects it will operate certain assets over a projected two year liquidation period.

The Plan exculpates and releases the Debtor and its independent directors, employees, officers, and their retained professionals. The Plan further protects the same group from pre and post confirmation claims by imposing a gatekeeper injunction that bars parties from bringing a claim or causes of action against the released and exculpated parties for their activities related to the Debtor or reorganized Debtor without first seeking approval from the Bankruptcy Court that the claim is "colorable."

On March 4, 2021, the Trusts timely filed a *Notice of Appeal* of the Confirmation Order to the United States District Court for the Northern District of Texas (the "District Court"). Ex. A. The Trusts' appeal is pending as Civil Action No. 3:21-cv-00550-N (the "Appeal").

Similar appeals to the Confirmation Order were filed as follows:

Civil Action No.: 3:21-cv-00539-N by Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., and NexPoint Strategic Opportunities Fund.

Civil Action No.: 3:21-cv-00546-L by James Dondero.

Civil Action No.: 3:21-cv-00538-N by Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.

(collectively “Related Parties” or “Related Appeals”). These appeals have been consolidated in the District Court for the purpose of deciding issues on a stay pending appeal. It is anticipated that these Related Appeals will also be consolidated by the District Court or this Court on a final basis sometime in the near future.

On March 16, 2021, the Trusts, the Related Parties and the Debtor jointly moved for the Bankruptcy Court to certify their collective appeals for direct appeal to this Court. The Parties agreed that direct appeals would materially advance the progress of the case. The same day, the Bankruptcy Court granted the joint motion and entered its *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit* (“Certification Order”) per 28 U.S.C. § 158(d)(2)(A)(iii).

All Parties have filed Petitions for Direct Appeal to this Court.

### ISSUES ON APPEAL

1. Whether the U.S. Bankruptcy Court for the Northern District of Texas (the “*Bankruptcy Court*”) erred in confirming the Debtor’s Fifth Amended

Plan of Reorganization of Highland Capital Management, L.P. (as Modified) (the “*Plan*”).<sup>2</sup>

2. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the exculpation provisions of the Plan, contained in Article IX of the Plan, effectuated third party releases (i.e. releasing a claim of a non-debtor against a non-debtor) prohibited by the Bankruptcy Court and over which the Bankruptcy Court had no jurisdiction, in direct violation of Fifth Circuit Court of Appeal (“*Fifth Circuit*”) case law (see, e.g., *In re Pacific Lumber Co.*, 584 F.3d 229, 253 (5th Cir. 2009) and *Securities and Exchange Commission vs Stanford International Bank, Ltd.* No. 17-10663 (5th Cir. 2019)). The third party releases and exculpations in the confirmed Plan provide releases and exculpations for business decisions and operational decisions as opposed to case administration matters. The releases and exculpations are also in favor of non-debtor entities and their managers and professionals, as opposed to estate managers and professionals, and post-confirmation claims against entities, their officers, managers and professionals, for entities that are to be formed pursuant to the confirmed Plan.

3. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the permanent injunction contained in Article IX of the Plan, which prohibits “taking any actions to interfere with the implementation or consummation of the Plan,” is overly broad and impermissibly vague.

4. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the “gatekeeper” injunction contained in Article IX of the Plan is a disguised grant of jurisdiction to the Bankruptcy Court to enter final orders on matters upon which it would not possess jurisdiction.

5. Whether the Bankruptcy Court erred as a matter of fact in confirming the Plan and entering the Confirmation Order because the “gatekeeper” injunction contained in Article IX of the Plan, which requires leave of the Bankruptcy Court upon a showing of a “colorable” claim or cause of action, is based on the Bankruptcy Court’s finding of vexatious litigation on the part of the Appellants and the need for a form of pre-filing injunction, when there was no evidence to support such findings.

6. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the Debtor failed to satisfy the 11 U.S.C. § 1129(a)(2) element for confirmation requiring the Debtor to have complied with all applicable provisions of the Bankruptcy Code, which the

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<sup>2</sup> Capitalized terms used but not otherwise defined have the meanings set forth in the Plan.



Debtor admittedly failed to do because it utterly failed to comply with Bankruptcy Rule 2015.3.

7. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the Plan violates 11 U.S.C. §1107(a)(7).

8. Whether the Bankruptcy Court erred as a matter of law in confirming the Plan and entering the Confirmation Order because the Plan does not meet the requirements of 11 U.S.C. §1129(b), unfairly discriminates and is not fair and equitable.

### **REASONS FOR DIRECT APPEAL**

The Trusts' reasons for direct appeal mirror those asserted by the Related Parties and adopts the assertions made by such parties.

### **RELIEF REQUESTED**

The Trusts respectfully request, pursuant to 28 U.S.C. § 158(d)(2), that this Court grant permission for the instant appeal, and all those Related Appeals, to bypass the District Court and be heard directly by this Court because (i) as certified by the Bankruptcy Court, a direct appeal will materially advance the progress of the case and (ii) the underlying judgment involves questions of law without controlling precedent.

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 8**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

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*000001*  
*000006*  
*000008*

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

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*000479*  
*000515*  
*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)	
Vol. 2	4	09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	5	10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000532	6	11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000537	7	11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
000558 Thru Vol. 8	8	11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)
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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)



6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

<p>Vol. 10 002163</p>	<p>13 07/16/2020</p>	<p>854</p>	<p>(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u>) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).</p>
<p>002175</p>	<p>14 07/17/2020</p>	<p>864</p>	<p>(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)</p>
<p>002309</p>	<p>15 12/23/2020</p>	<p>1625</p>	<p>(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)</p>
<p>002322</p>	<p>16 01/22/2021</p>	<p>1788</p>	<p>(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)</p>

Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

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April 15, 2021

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**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that, on this 15th day of April 2021, he caused a true and correct copies of this Petition to be served via e-mail on the following parties through their counsel of record:

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/s/ Douglas S. Draper

Douglas S. Draper

**CERTIFICATION OF WORD COUNT**

Pursuant to Federal Rule of Appellate Procedure 32(g), undersigned counsel certifies that this Petition complies with Rule 5(c) because it contains 2044 words, excepting those portions that may be excepted, and complies with the typeface and type-style requirements of Rule 32 because it has been prepared using Microsoft Office Word 2010 and set in Times New Roman font in a size equivalent to 14 points or larger.

*/s/ Douglas S. Draper*  
\_\_\_\_\_  
Douglas S. Draper



# “TAB” - A

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*Attorneys for The Dugaboy Investment Trust and Get Good Trust*

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

IN RE: \* Chapter 11  
\*  
\* Case No. 19-34054sgj11  
HIGHLAND CAPITAL MANAGEMENT, L.P. \*  
\*  
Debtor \*

**AMENDED NOTICE OF APPEAL AND STATEMENT OF ELECTION**

**Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): \_\_\_\_

*The Dugaboy Investment Trust and Get Good Trust*

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- Plaintiff
- Defendant
- Other (describe)

\_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

- Debtor
- Creditor
- Trustee
- Other (describe)

\_\_\_\_\_

**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: *Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief [Dkt. # 1943]*

2. State the date on which the judgment, order, or decree was entered: February 22, 2021

**Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. **Party/Appellee:** Debtor: Highland Capital Management, L.P.

Attorney:

PACHULSKI STANG ZIEHL & JONES LLP  
Jeffery N. Pomerantz  
Ira D. Kharasch  
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And

Hayward & Associates PLLC  
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2. **Party/Appellants:** The Dugaboy Investment Trust and Get Good Trust

Attorney:

HELLER, DRAPER & HORN, L.L.C.  
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**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

**Not applicable.**

March 11, 2021

Respectfully submitted,

*/s/Douglas S. Draper.*

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*Attorneys for The Dugaboy Investment Trust  
and Get Good Trust*

## **EXHIBIT 15**

Case No. \_\_\_\_\_

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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**In re: HIGHLAND CAPITAL MANAGEMENT, L.P.**

**Proposed Appeal of James Dondero**

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On Appeal from the United States Bankruptcy Court for  
the Northern District of Texas, Dallas Division  
Bankruptcy Case No. 19-34054 (SGJ11)

Appeal Pending as Civil Action No. 3:21-cv-00546-L in the United States District  
Court for the Northern District of Texas, Dallas Division

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**PETITION FOR DIRECT APPEAL UNDER 28 U.S.C. § 158(d)**

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D. Michael Lynn  
John Y. Bonds, III  
Clay M. Taylor  
John T. Wilson IV  
Bryan C. Assink  
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**ATTORNEYS FOR PETITIONER JAMES DONDERO**



**CERTIFICATE OF INTERESTED PERSONS**

Undersigned counsel certifies that the following listed persons and entities, as described in the fourth sentence of Rule 28.2.1, have an interest in the outcome of this case. These representations are made so that the judges of this Court may evaluate possible disqualification or recusal:

1. Appellant

**James Dondero**

Counsel:

D. Michael Lynn  
John Y. Bonds, III  
John T. Wilson IV  
Clay M. Williams  
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2. Appellee:

**Highland Capital Management, L.P.**

Counsel:

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3. Other Appellants

**NexPoint Advisors, L.P.**  
**Highland Capital Management Fund Advisors, L.P.**

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**Highland Income Fund**  
**NexPoint Strategic Opportunities Fund**  
**Highland Global Allocation Fund**  
**NexPoint Capital, Inc.**

Counsel:  
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**Get Good Trust  
The Dugaboy Investment Trust**

Counsel:  
Douglas S. Draper  
Leslie A. Collins  
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/s/ Clay M. Taylor  
Clay M. Taylor  
Counsel for James Dondero

## INTRODUCTION

James Dondero (“Mr. Dondero”) respectfully requests that the Court grant him permission to appeal, pursuant to Federal Rule of Appellate Procedure 5 and 28 U.S.C. § 158(d)(2)(A), the *Order (i) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified); and (ii) Granting Related Relief* (the “Confirmation Order”)<sup>1</sup> directly to this Court from the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”).

This Court should grant permission for a direct appeal because, as all parties agree, a direct appeal would materially advance the progress of the bankruptcy case. The conduct and statements of the parties have made their intention plain that the issues presented on appeal will ultimately be brought to this Court by whichever parties are unsuccessful at the District Court. Further, the Confirmation Order raises questions of law as to the use and effect of exculpation provisions and imposition of a gatekeeper injunction in the bankruptcy plan where there is no controlling precedent from this Court or the Supreme Court.

## BACKGROUND

The issues on appeal arise from the cramdown confirmation of a Chapter 11 plan containing a broad exculpation provision that releases typically unreleased third

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<sup>1</sup> Included as Exhibit A.

parties and a permanent gatekeeper injunction prohibiting any claims, including post-confirmation claims, without prior approval of the Bankruptcy Court. Inversely, the same plan lacks the requisite notice or participation provisions for creditor and parties-in-interest involvement in sales to be in the best interest of the creditors.

Mr. Dondero founded Highland Capital Management, L.P. (“Debtor”). On October 16, 2019, Debtor filed for voluntary Chapter 11 bankruptcy protection, creating its bankruptcy estate. On January 9, 2020, the Debtor, the Official Unsecured Creditors’ Committee, and Mr. Dondero entered into a stipulation and consent order that, among other things, provided for the removal of Mr. Dondero from Debtor and his replacement by a board of independent directors.

On February 22, 2021, the Bankruptcy Court entered the Confirmation Order confirming the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* (the “Plan”). The Plan is a wind down and liquidation plan where Debtor intends to liquidate over the course of a two-year period. In the interim, the reorganized Debtor continues to manage the assets of others.

Under the Plan, and over the objection of Mr. Dondero and others, the Debtor and its independent directors, employees, officers, and their retained professionals are exculpated and anyone with a claim, even one arising post-confirmation, is

enjoined via the gatekeeper injunction from bringing a claim or cause of action against those released parties for their activities related to the Debtor or reorganized Debtor without first seeking approval from the Bankruptcy Court that the claim is “colorable.”

On March 8, 2021, Mr. Dondero timely filed his *Notice of Appeal* of the Confirmation Order to the United States District Court for the Northern District of Texas (the “District Court”). Ex. B. Mr. Dondero’s appeal is pending as Civil Action No. 3:21-cv-00546-L (the “Appeal”).

Similar appeals to the Confirmation Order were filed as follows:

Civil Action No.: 3:21-cv-00539-N by Highland Global Allocation Fund, Highland Income Fund, NexPoint Capital, Inc., and NexPoint Strategic Opportunities Fund.

Civil Action No.: 3:21-cv-00550-L by Get Good Trust and The Dugaboy Investment Trust.

Civil Action No.: 3:21-cv-00538-N by Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P.

(collectively “Related Parties” or “Related Appeals”). These appeals have been consolidated in the District Court for the purpose of deciding issues on a stay pending appeal. It is anticipated that these Related Appeals will also be consolidated by the District Court or this Court on a final basis sometime in the near future.

On March 16, 2021, Mr. Dondero, along with Debtor and the Related Parties (the “Parties”), jointly moved for the Bankruptcy Court to certify their collective appeals for direct appeal to this Court. The Parties agreed that direct appeals would



materially advance the progress of the case. The same day, the Bankruptcy Court granted the joint motion and entered its *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit* (“Certification Order”)<sup>2</sup> per 28 U.S.C. § 158(d)(2)(A)(iii).

On March 31, 2021, NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. (collectively the “Advisors”) filed their *Petition for Permission to Appeal* with this Court in Case No. 21-90011 (“Advisors’ Petition”).<sup>3</sup> The Advisors’ Petition addresses issues similar to those raised by Mr. Dondero on appeal. Mr. Dondero joins in the arguments asserted in the Advisors’ Petition and will endeavor not to duplicate those arguments here.

On April 9, 2021, Debtor filed a response to Advisors’ Petition (“Debtor’s Response”)<sup>4</sup> challenging, not this Court taking up the appeal, but whether a direct appeal should be granted for more reasons than just because it would materially advance the progress of the case. Debtor’s Response is an attempt to argue the merits of the appeal. Rather than being a reason to limit the direct appeal, Debtor’s Response highlights why there is a need for controlling precedent on the issues raised in Mr. Dondero’s appeal and the Related Appeals.

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<sup>2</sup> Included as Exhibit C.

<sup>3</sup> Included as Exhibit D.

<sup>4</sup> Included as Exhibit E.

On April 13, 2021, Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc. (the “Funds”) filed their *Petition for Direct Appeal Under 28 U.S.C. § 158(d)* with this Court in Case No.: 21-90014 (“Funds’ Petition”).<sup>5</sup> The Funds’ Petition addresses issues similar to those raised by Mr. Dondero on appeal. Mr. Dondero also joins in the arguments asserted in the Funds’ Petition and will also endeavor not to duplicate those arguments here.

### ISSUES ON APPEAL

The issues raised by Mr. Dondero on appeal are as follows:

1. Whether the Plan’s channeling injunction/gatekeeper injunction violates applicable law by requiring claims against certain parties to be brought before the Bankruptcy Court for a finding the claims are colorable before those causes of action can be asserted against those parties in the Bankruptcy Court or any other court of competent jurisdiction, and that, as a result, confirmation of that Plan was improper both under the law and the facts of this case and record at trial?
2. Whether the Plan’s broad post-confirmation jurisdictional grant to the Bankruptcy Court was so over-broad as to violate applicable law and that, as a result, confirmation of that Plan was improper both under the law and the facts of this case and record at trial?
3. Whether the exculpation provisions of the Plan releasing third-party, non-debtor parties violates applicable law and that, as a result, confirmation of that Plan was improper both under the law and the facts of this case and record at trial?
4. Whether confirmation of the plan violates 11 U.S.C. § 1129(a)(7), especially given the Claimant Trust’s unfettered ability to sell assets without providing creditors and other parties-in-interest notice of the sales or the ability to

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<sup>5</sup> Included as Exhibit F.

participate in the sales processes either as bidders, or to bring in other bidders who might pay a higher and better value to the table?

Ex. G, *Statement of Issues on Appeal*.

### **BASES FOR DIRECT APPEAL**

Mr. Dondero's bases for direct appeal are similar to those raised by the Funds and Advisors: a direct appeal materially advances the case, the exculpation provisions in the Plan go beyond this Court's *Pacific Lumber* opinion, and the gatekeeper injunction extends the bounds of the Bankruptcy Court's jurisdiction beyond the scope of controlling authority. Mr. Dondero incorporates and joins in the arguments in the Advisors' Petition and Funds' Petition on these issues and addresses each only to highlight how Debtor's Response further shows the need for this Court to opine on the issues on direct appeal.

#### **I. Mr. Dondero, Debtor, the Related Parties, and the Bankruptcy Court Agree that a Direct Appeal will Materially Advance this Case.**

There is no dispute that a direct appeal will materially advance this case. Debtor welcomes a direct appeal so that the case will be materially advanced. A direct appeal ensures a faster resolution such that the bankruptcy case can be promptly administered and closed, which is beneficial for all parties and the Court.

## II. Debtor's Assertion that the Exculpatory Provision Issue Has Controlling Authority Highlights the need for Clarity from this Court.

Resolution of the exculpatory provision issue would advance this case and presents an opportunity for this Court to clarify and reinforce its holding in *Pacific Lumber*. This Court stated that “non-consensual non-debtor releases and permanent injunctions” are foreclosed. *In re Pac. Lumber Co.*, 584 F.3d 229, 252 (5th Cir. 2009). Such releases are limited to creditor committees and their members. *Id.* at 253. There is little doubt that under applicable law officers and directors generally are not afforded releases. *See In re Thru, Inc.*, 2018 U.S. Dist. LEXIS 179769, 2018 WL 5113124, at \*67 (N.D. Tex. October 19, 2018), *aff'd.*, *In re Thru, Inc.*, 2019 U.S. App. LEXIS 32405, 2019 WL 5561276 (5th Cir. Tex., Oct. 28, 2019) (holding it was clear error to approve plan with exculpation provision releasing officers and directors from liability for own negligence). The allegedly unanswered question is where do independent directors and officers appointed post-petition and their professionals fall under *Pacific Lumber*: are they non-debtors not to be afforded releases or are they the equivalent of creditor committee members?

Debtor clings to the Bankruptcy Court's analysis of *Pacific Lumber* to suggest that because the Bankruptcy Court analyzed *Pacific Lumber*, it interpreted the case correctly. Debtor's argument is focused on winning the merits, not on whether there is an important issue for this Court's consideration. That Debtor stresses a particular

and inconsistent reading of *Pacific Lumber* emphasizes the need for a clarification of how that precedent should be applied in this case.

Debtor also suggests that under *Shoaf* the exculpatory provision issue is precluded by res judicata. *Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir. 1987). This again goes to the merits of the issue and not the need for its resolution. Regardless, this Court re-stated its *Shoaf* holding as “once a reorganization plan passed the appeal stage it could not be challenged even though it violated the Bankruptcy Code’s prohibition on such discharges.” *In re Vitro SAB De CV*, 701 F.3d 1031, 1069 (5th Cir. 2012). This is not *Shoaf*; the Plan is what is being appealed.

### **III. Debtor’s Defense of the Gatekeeper Injunction Emphasizes the Need for Controlling Authority.**

Debtor focuses on the potential for the Bankruptcy Court’s post-confirmation jurisdiction in matters pertaining to implementation of the Plan, the Bankruptcy Court’s gatekeeping function for claims asserted by creditor committees or against trustees, and the authority of a court to protect its jurisdiction from vexatious litigation to support the gatekeeper injunction. However, Debtor does not cite controlling authority that stands for the proposition that the Bankruptcy Court can make “the initial determination as to whether a claim is colorable” for claims asserted post-confirmation, not against trustees, and by parties that are not creditor committees. Ex. E, ¶ 18. By arguing that these different concepts synthesize to

support the gatekeeper injunction in the Plan, Debtor is highlighting the gap in controlling authority that is primed for this Court's review.

Debtor asserts that the Bankruptcy Court's post-confirmation jurisdiction "concerning the implementation or execution of a confirmed plan" allows for the jurisdiction necessary for the gatekeeper injunction. *In re United States Brass Corp.*, 301 F.3d 296, 305 n.29 (5th Cir. 2002) (citing *In re Craig's Stores of Tex., Inc.*, 266 F.3d 388, 390 (5th Cir. 2001)). However, this ignores that the gatekeeper injunction applies to claims or causes of action a party may assert not necessarily concerning the plan. *In re Stonebridge Techs., Inc.* is similarly inapposite because the jurisdictional question concerned an adversary action brought by the trustee on behalf of the bankruptcy estate. 430 F.3d 260, 266-67 (5th Cir. 2005). The gatekeeper injunction effectively forever protects Debtor from claims and causes of action from third parties by forcing them to all be brought before the Bankruptcy Court, whether there is a basis for jurisdiction or not. The gatekeeper injunction itself manufactures jurisdiction for the Bankruptcy Court, which is not a function derived from the bankruptcy statutes or Debtor's case law.

Debtor contends that the gatekeeping function can be derived from the Bankruptcy Court's similar function for claims asserted by a creditor committee or against a trustee. *See La. World Exposition v. Fed. Ins. Co.*, 858 F.2d 233 (5th Cir. 1988) (bankruptcy court has gatekeeping function to determine if committee claims



are colorable before authorizing suit); *see also* *Villegas v. Schmidt*, 788 F.3d 156, 158 (5th Cir. 2015) (bankruptcy court has gatekeeping function as to claims brought against bankruptcy trustee). While these cases provide for a gatekeeping function, they do not stand for the proposition that such a function should be used by the Bankruptcy Court to insulate a debtor from all claims after the bankruptcy estate has ended. This dramatic expansion of both the duration and scope of an Article I court’s jurisdictional power in spite of *Stern v. Marshall* decided by the U.S. Supreme Court is particularly troubling. 564 U.S. 462 (2011). *Stern* stands for the limited jurisdiction of the Bankruptcy Court over only bankruptcy matters. *Id.* at 499. An expansive gatekeeper injunction, asserting jurisdiction over every possible claim or cause of action, goes against *Stern*. This Court needs to provide guidance to its lower courts on the appropriate use of “gatekeeper” functions in light of the jurisdictional limitations of *Stern* and its progeny.

Debtor also finds authority for the gatekeeper injunction in a court’s ability to sanction harassing or vexatious litigants. Debtor cites *Baum v. Blue Moon Ventures, LLC* to argue that the gatekeeper injunction is just an extension of the Bankruptcy Court’s inherent power over its docket. 513 F.3d 181 (5th Cir. 2008). *Baum* is focused on a district court’s *sua sponte* change to an injunction limiting the ability to file claims of those who had previously been sanctioned to jail time and a \$100,000.00 fine for impersonating attorneys, lying to the court, and abusing the

judicial system. *Id.* at 187. *Baum*, and other cases like it, are not about enjoining claims against a debtor that could, after the bankruptcy estate has ended, be brought in other courts.

While it may be the case that the Bankruptcy Court synthesized concepts from the likes of *In re U.S. Brass Corp.*, *La. World Exposition*, *Villegas*, and *Baum*, this amalgamation of different concepts to reach new conclusions shows that controlling authority on the subject is lacking. This is especially the case where the new amalgamation contradicts the jurisdictional limits the Supreme Court imposed in *Stern* and this Court's prohibitions in *Pacific Lumber*. This points to the need for this Court to opine on the issues presented in these Appeals.

### RELIEF REQUESTED

Mr. Dondero respectfully requests, pursuant to 28 U.S.C. § 158(d)(2), that this Court grant permission for the instant appeal, and all those Related Appeals, to bypass the District Court and be heard directly by this Court because (i) as certified by the Bankruptcy Court, a direct appeal will materially advance the progress of the case and (ii) the underlying judgment involves questions of law without controlling precedent.

April 15, 2021

Respectfully Submitted,

/s/ Clay M. Taylor

D. Michael Lynn

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*Attorneys for James Dondero*

**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that, on this 15th day of April 2021, he caused a true and correct copies of this Petition, with all exhibits attached hereto, to be served via e-mail on the following parties through their counsel of record:

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John A. Morris (jmorris@pszjlaw.com)

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Highland Capital Management Fund Advisors, L.P.  
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Highland Income Fund  
NexPoint Strategic Opportunities Fund  
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NexPoint Capital, Inc.:  
A. Lee Hogewood, III (A.Lee.HogewoodIII@klgates.com)

Get Good Trust  
The Dugaboy Investment Trust:  
Douglas Draper (ddraper@hellerdraper.com)

*/s/ Clay M. Taylor*  
\_\_\_\_\_  
Clay M. Taylor

**CERTIFICATION OF WORD COUNT**

Pursuant to Federal Rule of Appellate Procedure 32(g), undersigned counsel certifies that this Petition complies with Rule 5(c) because it contains 2,537 words, excepting those portions that may be excepted, and complies with the typeface and type-style requirements of Rule 32 because it has been prepared using Microsoft Office Word 2010 and set in Times New Roman font in a size equivalent to 14 points or larger.

*/s/ Clay M. Taylor*  
\_\_\_\_\_  
Clay M. Taylor

## **EXHIBIT 16**

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 4, 2021

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 21-90011  
\_\_\_\_\_

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

*Debtor,*

NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT  
FUND ADVISORS, L.P.; HIGHLAND INCOME FUND; NEXPOINT  
STRATEGIC OPPORTUNITIES FUND; HIGHLAND GLOBAL  
ALLOCATION FUND; NEXPOINT CAPITAL, INCORPORATED;  
JAMES DONDERO; THE DUGABOY INVESTMENT TRUST; GET  
GOOD TRUST,

*Petitioners,*

*versus*

HIGHLAND CAPITAL MANAGEMENT, L.P.,

*Respondent.*

\_\_\_\_\_  
Motion for Leave to Appeal  
Pursuant to 28 U.S.C. § 158(D)  
\_\_\_\_\_

Before DENNIS, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

001704



No. 21-90011

IT IS ORDERED that the motion of NexPoint Advisors, L.P. and Highland Capital Management Fund Advisors, L.P. for leave to appeal under 28 U.S.C. § 158(d) is GRANTED.

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

May 04, 2021

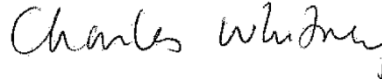
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 21-90011 NexPoint v. Highland Capital  
USDC No. 19-34054

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Charles B. Whitney, Deputy Clerk  
504-310-7679

Mr. Zachery Z. Annable  
Mr. Bryan Christopher Assink  
Mr. Douglas Scott Draper  
Mr. David R. Fine  
Ms. Melissa Sue Hayward  
Mr. Jeffrey N. Pomerantz  
Mr. Davor Rukavina  
Mr. Clay Marshall Taylor  
Mr. Jed Weintraub

001706

## **EXHIBIT 17**

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

June 2, 2021

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 21-90011  
\_\_\_\_\_

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

*Debtor,*

NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT  
FUND ADVISORS, L.P.; HIGHLAND INCOME FUND; NEXPOINT  
STRATEGIC OPPORTUNITIES FUND; HIGHLAND GLOBAL  
ALLOCATION FUND; NEXPOINT CAPITAL, INCORPORATED;  
JAMES DONDERO; THE DUGABOY INVESTMENT TRUST; GET  
GOOD TRUST,

*Petitioners,*

*versus*

HIGHLAND CAPITAL MANAGEMENT, L.P.,

*Respondent.*

\_\_\_\_\_  
Motion for Leave to Appeal  
Pursuant to 28 U.S.C. § 158(D)  
\_\_\_\_\_

Before DENNIS, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the motion of Highland Global Allocation  
Fund, Highland Income Fund, NexPoint Capital, Incorporated, and

001708

No. 21-90011

NexPoint Strategic Opportunities Fund for leave to appeal under 28 U.S.C. § 158(d) is GRANTED.

IT IS FURTHER ORDERED that the motion of James Dondero for leave to appeal under 28 U.S.C. § 158(d) is GRANTED.

IT IS FURTHER ORDERED that the motion of Get Good Trust and The Dugaboy Investment Trust for leave to appeal under 28 U.S.C. § 158(d) is GRANTED.

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

June 02, 2021

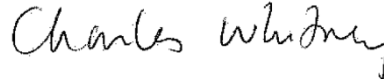
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 21-90011 NexPoint v. Highland Capital  
USDC No. 19-34054

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Charles B. Whitney, Deputy Clerk  
504-310-7679

Mr. Zachery Z. Annable  
Mr. Bryan Christopher Assink  
Mr. Robert P. Colwell  
Mr. Douglas Scott Draper  
Mr. David R. Fine  
Ms. Melissa Sue Hayward  
Mr. Jeffrey N. Pomerantz  
Mr. Davor Rukavina  
Mr. Clay Marshall Taylor

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## **EXHIBIT 18**

Case No. 21-10449

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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In re: Highland Capital Management, L.P.

Debtor.

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NexPoint Advisors, L.P., and Highland Capital Management Fund Advisors, L.P.,

Appellants,

v.

Highland Capital Management, L.P.,

Appellee.

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**APPELLANTS' MOTION FOR STAY PENDING APPEAL**

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Direct Appeal from the United States Bankruptcy Court  
for the Northern District of Texas, Honorable Stacey G.C. Jernigan

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Case No. 21-10449

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

In re: Highland Capital Management, L.P.

Debtor.

NexPoint Advisors, L.P., and Highland Capital Management Fund Advisors, L.P.,

Appellants,

v.

Highland Capital Management, L.P.,

Appellee.

**CERTIFICATE OF INTERESTED PERSONS**

The undersigned counsel of record certifies that the following listed persons and entities, as described in the fourth sentence of Rule 28.2.1, have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal:

**1. APPELLANTS/MOVANT:**

**NexPoint Advisors, L.P.**

Owned by:

The Dugaboy Investment Trust

NexPoint Advisors GP, LLC

Owned by:

James Dondero

**Highland Capital Management Fund Advisors, L.P.**

Owned by:

Highland Capital Management Services, Inc.

Strand Advisors XVI, Inc.

Okada Family Revocable Trust

**Represented by:**

Davor Rukavina, Esq.

Julian P. Vasek, Esq.

MUNSCH HARDT KOPF & HARR, P.C.

**2. RETAIL FUNDS MANAGED BY APPELLANTS:**

**NexPoint Capital, Inc.**

**Highland Income Fund**

**NexPoint Global Strategic Opportunities, Fund**

**3. APPELLEE/RESPONDENT:**

**Highland Capital Management, L.P.**

Owned by:

Hunter Mountain Investment Trust

The Dugaboy Investment Trust

Mark and Pamela Okada Family Trust – Exempt Trust 2

Mark and Pamela Okada – Exempt Descendants’ Trust

Mark Kiyoshi Okada

Strand Advisors, Inc.

**Represented by:**

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz, Esq.

John Morris, Esq.

HAYWARD PLLC

Melissa S. Hayward, Esq.

Zachery Annable, Esq.

4. **OTHER PARTIES INDIRECTLY AFFECTED BY APPEAL:**

**Official Committee of Unsecured Creditors**

Members:

Redeemer Committee of Highland Crusader Fund  
Meta-e Discovery  
UBS Securities LLC  
UBS AG London Branch  
Acis Capital Management, L.P.  
Acis Capital Management GP, LLC  
Josh Terry

**All creditors in Highland Capital Management, L.P. bankruptcy**

/s/ Davor Rukavina  
Davor Rukavina, Esq.  
Counsel for the Appellants

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Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (the “Movants”), the appellants in this direct bankruptcy appeal, file this their *Motion for Stay Pending Appeal* (the “Motion”), respectfully stating as follows:

### I. SUMMARY<sup>1</sup>

The Movants respectfully request a stay of the Bankruptcy Court’s Confirmation Order, by which it confirmed the Chapter 11 Plan of Highland Capital Management, L.P. (the “Debtor”).

A stay is necessary to prevent irreparable harm by ensuring that this Appeal does not become equitably moot through the implementation of the Plan. A stay is also necessary because the Plan’s injunctions prevent the Movants from exercising their contractual and statutory rights, post-confirmation, and from potentially asserting claims against various non-debtor parties, which claims the Plan releases, exculpates, and enjoins. If a stay is not entered, then the Debtor is likely to liquidate all of its holdings with judicial immunity by the time that the merits of this appeal are heard.

A stay is appropriate because the Plan violates this Court’s precedent and the Bankruptcy Code. First, the Plan contains sweeping injunction, release, and exculpation provisions expressly forbidden by this Court in *Pacific Lumber*, which provisions permanently enjoin the Movants from exercising their lawful rights and

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<sup>1</sup> Capitalized terms used in this Summary are defined below.

which impermissibly release claims that the Movants have against various non-debtors. The Bankruptcy Court recognized as much, predicting that this Court would “extend the holding” of *Pacific Lumber*—something that this Court has yet to do, however. Second, the Plan could not have been confirmed at all under the “cramdown” provisions of the Bankruptcy Code because equity interest holders retain certain interests even though unsecured creditors rejected the Plan and are not paid in full under the Plan.

A stay will not prejudice the Debtor or other creditors. The Plan does not provide for a sale, nor for exit financing, nor for the issuance or new securities or investments in the Debtor. Rather, the Plan simply provides for the Debtor to liquidate its assets over time, something that the Debtor is presently doing and can continue doing without a need for the Plan.

A stay will serve the public interests. Thousands of innocent investors, whose investments (more than \$1 billion) the Debtor manages, are enjoined from exercising their solemn rights for post-bankruptcy claims. Potential claims they hold against the Debtor’s management and non-debtors are simultaneously extinguished through the Plan’s exculpation provisions. The public interest cannot be served by permitting a Plan that clearly violates this Court’s precedent to become effective, and the public interest cannot be served when these innocent investors are enjoined from exercising their contractual and statutory rights.

## I. BACKGROUND<sup>2</sup>

### A. THE DEBTOR AND THE CLOS

The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940.<sup>3</sup> Under that Act, the Debtor owes strict fiduciary duties to the funds that it manages and to the investors whose investments it manages.<sup>4</sup> Among other things, the Debtor manages more than \$1 billion in investments in various collateralized loan obligations (“CLOs”) pursuant to portfolio management agreements (the “PMAs”) in exchange for various fees paid by the CLOs.<sup>5</sup>

The Movants are also registered investment advisors who manage and advise various publicly traded funds, including three such funds (the “Funds”)<sup>6</sup> which collectively have invested approximately \$140 million in the CLOs the Debtor manages.<sup>7</sup> The Movants are also unsecured and administrative creditors

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<sup>2</sup> Contemporaneously with the filing of this Motion, the Movants are filing their *Appendix of Appellants*. Citations to the appendix shall be notated as follows: Appx. #.

<sup>3</sup> Appx. 6.

<sup>4</sup> Appx. 340 (Tr. 179:8-15).

<sup>5</sup> Appx. 350-51 (Tr. 189:3-190:12).

<sup>6</sup> NexPoint Capital Inc., Highland Income Fund, and NexPoint Strategic Opportunities, Fund. Appx. 508 (Tr. 52:20-25).

<sup>7</sup> Appx. 509-11 (Tr. 53:1-55:5).

against the Debtor.<sup>8</sup> The Movants have standing to appeal the Confirmation Order and to seek a stay pending appeal, as confirmed by the Bankruptcy Court.<sup>9</sup>

Under at least three PMAs, the Funds may remove the Debtor as CLO manager because the Funds hold the requisite percentage of shares. There are various other CLOs where the Funds do not hold enough shares but are still able to vote their shares along with other shareholders. Thus, should the Debtor, as manager, act inappropriately, the Funds, and the Movants acting on their behalf, have the ability to protect themselves and their investors, absent the Plan.

**B. THE CONFIRMATION ORDER AND PLAN**

The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on October 16, 2019.<sup>10</sup> On February 22, 2021, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) entered an order (the “Confirmation Order”)<sup>11</sup> confirming the Debtor’s Chapter 11 plan (the “Plan”) over the objections of the Movants and various others.<sup>12</sup>

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<sup>8</sup> Appx. 777-95.

<sup>9</sup> Appx. 733 (Tr. 20:15-18); Appx. 863 (Tr. 68:13-15).

<sup>10</sup> Appx. 7.

<sup>11</sup> Appx. 1.

<sup>12</sup> Appx. 92.



Because Class 8, the class of unsecured creditors, rejected the Plan and is not paid in full under the Plan,<sup>13</sup> the Bankruptcy Court confirmed the Plan under the cramdown provisions of the Bankruptcy Code, *see* 11 U.S.C. § 1129(b)(2)(B), including the critical “Absolute Priority Rule.” This Rule is discussed in detail in section III.B.iii below.

The Plan contains various other provisions directly applicable to this appeal. First, the Plan assumes the PSAs.<sup>14</sup> The effect of assumption is that “the debtor must continue to perform . . . the debtor accepts both the obligations and the benefits of the executory contract.” *In re Nat’l Gypsum Co.*, 208 F.3d 498, 505-06 (5th Cir. 2000). Second, the Plan releases and exculpates claims that the Movants and others have against numerous non-debtors, as discussed in detail in section III.B.ii below. Third, the Plan enjoins the Movants and others from exercising their rights and claims against the Debtor and numerous non-debtors, some of which claims are subject to a “gatekeeper” injunction where the Bankruptcy Court must first determine that a claim against a non-debtor is “colorable,” as discussed in detail in section III.B.ii below.

The Movants timely filed their notice of appeal of the Confirmation Order.<sup>15</sup> On March 31, 2021, and after certification by the Bankruptcy Court,<sup>16</sup> the Movants

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<sup>13</sup> Appx. 6, ¶ 3 (Class 8 rejected Plan); Appx. 41 (Class 8 projected to receive 71%).

<sup>14</sup> Appx. 69, 157-61.

<sup>15</sup> Appx. 772.

filed their petition for leave to file a direct appeal of the Confirmation Order, asserting five (5) issues on appeal (only the first four (4) of which are relevant to this Motion).<sup>17</sup> On May 4, 2021, this Court granted the Movants’ petition for a direct appeal of the Confirmation Order.<sup>18</sup>

**C. MOTION FOR STAY PENDING APPEAL PROCEEDINGS BELOW**

While the Confirmation Order has been entered, that does not mean that the Plan is effective or operative. Rather, as is common, the Plan contains various conditions precedent that must be met before the Plan can be declared “effective.”<sup>19</sup>

On February 28, 2021, the Movants sought a stay of the Confirmation Order before the Bankruptcy Court.<sup>20</sup> On March 19, 2021, the Bankruptcy Court orally denied said motion.<sup>21</sup> The Bankruptcy Court followed its oral denial with two written orders.<sup>22</sup>

On April 1, 2021, the Movants sought a stay of the Confirmation Order before the United States District Court for the Northern District of Texas, Dallas

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<sup>16</sup> Appx. 775.

<sup>17</sup> Appx. 885, 897-99.

<sup>18</sup> Appx. 945.

<sup>19</sup> Appx. 142.

<sup>20</sup> Appx. 947-80.

<sup>21</sup> Appx. 861-76 (Tr. 66:13 – 81:13).

<sup>22</sup> Appx. 878-84.

Division (the “District Court”), as that is where the appeal was then pending.<sup>23</sup> On April 12, 2021, the District Court entered an order granting expedited consideration of said motion and ordering expedited briefing.<sup>24</sup> As of the filing of this Motion, the District Court has yet to adjudicate the motion for stay pending appeal.

Because this Court now has jurisdiction over this appeal, the Movants now file this Motion and seek a stay of the Confirmation Order from this Court.

The Debtor has agreed to stay the effectiveness of the Plan through June 25, 2021. Thus, the Plan has yet to become effective or be implemented.

## **II. ARGUMENTS AND AUTHORITIES**

### **A. STANDARD FOR A STAY PENDING APPEAL**

Because this Court has granted a direct appeal of the Confirmation Order, this Court is the appropriate court to consider a stay of the Confirmation Order pending appeal. *See* FED. R. BANKR. P. 8007(b)(1). The Movants have satisfied the requirement of first seeking a stay from the Bankruptcy Court, which denied said relief. *See id.* at 8007(b)(2)(B).

In determining whether to grant a discretionary stay pending appeal, the Court considers the following criteria: (1) the likelihood that the movant will

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<sup>23</sup> Appx. 912-44.

<sup>24</sup> Appx. 907-11.

prevail on the merits of the appeal; (2) whether the movant will suffer irreparable injury if the stay is denied; (3) whether other parties would suffer substantial harm if the stay is granted; and (4) whether the public interest will be served by granting the stay. *See In re First S. Sav. Ass’n*, 820 F.2d 700, 709 (5th Cir. 1987). “The first two factors are the most critical.” *Tex. Democratic Party v. Abbott*, 961 F.2d 389, 397 (5th Cir. 2020). However, the four-element test does not apply “where there is a serious legal question involved and the balance of equities heavily favors a stay; in those situations, the movant only needs to present a substantial case on the merits.” *Weingarten Realty Investors v. Miller*, 661 F.3d 904, 910 (5th Cir. 2011).

**B. THERE IS A LIKELIHOOD OF SUCCESS ON THE MERITS**

**i. Legal Standard.**

“[T]he appellant need not always show a ‘probability’ of success on the merits; instead, the movant need only present a substantial case on the merits when a serious legal question is involved and show that the balance of the equities weighs heavily in favor of granting the stay.” *Arnold v. Garlock*, 278 F.3d 426, 439 (5th Cir. 2001) (quotations omitted).

**ii. The Plan Violates *Pacific Lumber***

In *Bank of New York Trust Co., N.A. v. Official Unsecured Creditors’ Comm. (In re Pacific Lumber Co.)*, 584 F.3d 229, 253 (5th Cir. 2009), this Court

broadly foreclosed nonconsensual releases or exculpations of third party claims; *i.e.* a claim held by a non-debtor against a non-debtor. The *Pacific Lumber* plan proposed to exculpate the debtor's management and professionals for actions (or omissions) they may have taken during the Chapter 11 case. *See id.* at 251. The Court found this impermissible:

this court has held Section 524(e) only releases the debtor, not co-liable third parties. These cases seem broadly to foreclose non-consensual non-debtor releases and permanent injunctions. . . the essential function of the exculpation clause proposed here is to absolve the released parties from any negligent conduct that occurred during the course of the bankruptcy. The fresh start § 524(e) provides to debtors is not intended to serve this purpose.

*Id.* at 252 (internal citations omitted).

Nor can a release of third party claims be effectuated through an injunction: “[s]ection 524 prohibits the discharge of debts of nondebtors. Accordingly, we must overturn a § 105 injunction if it effectively discharges a nondebtor.” *Feld v. Zale Corp. (In re Zale Corp.)*, 62 F.3d 746, 760 (5th Cir. 1995). The Court concluded that no such injunction could be imposed under a plan on a permanent basis:

the stay may not be extended post-confirmation in the form of a permanent injunction that effectively relieves the nondebtor from its own liability to the creditor. Not only does such a permanent injunction improperly insulate nondebtors in violation of section 524(e), it does so without any countervailing justification of debtor protection.

*Id.* at 760 (quoting *In re W. Real Fund*, 922 F.2d 592, 601-02 (10th Cir. 1990)).

Here, the Plan violates these dictates in three substantial ways: (i) it exculpates claims for negligence that may be held by the Movants and others against numerous non-debtor parties;<sup>25</sup> (ii) it enjoins the Movants and others from exercising their contractual rights after confirmation under contracts that are assumed;<sup>26</sup> and (iii) it subjects any claim that the Movants and others may have against the foregoing for anything other than negligence to a “gatekeeper injunction” where the Bankruptcy Court, reserving “exclusive jurisdiction,” must first determine that a “colorable claim” exists.<sup>27</sup>

With respect to the Plan’s exculpation provisions, “Exculpated Parties” non-debtor managed funds, employees, the Debtor’s general partner, the Debtor’s management and professionals, and the affiliates of the foregoing.<sup>28</sup> Subject to various limitations, the Plan provides that:

no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of . . .<sup>29</sup>

On its face, these provisions directly and clearly violate *Pacific Lumber*.

But these provisions are even more serious because they also apply to, and

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<sup>25</sup> Appx. 144 (C. Exculpation).

<sup>26</sup> Appx. 147 (F. Injunction)

<sup>27</sup> *Id.*

<sup>28</sup> Appx. 106.

<sup>29</sup> Appx. 144 (C. Exculpation).



exculpate, potential *prospective* liability incurred after the confirmation of the Plan, because these provisions also apply to “the implementation of the Plan.”<sup>30</sup> The “implementation of the Plan” will take between two to three years and involves the Debtor’s management of more than \$1 billion of other peoples’ investments.<sup>31</sup> This is unprecedented, that a federal court would immunize fiduciaries against future claims. This also violates the fundamental premise of what it means to *exit* bankruptcy:

Once the bankruptcy court confirms a plan of reorganization, the debtor may go about its business without further supervision or approval. The firm also is without the protection of the bankruptcy court. It may not come running to the bankruptcy judge every time something unpleasant happens.

*Bank of La. v. Craig’s Stores of Tex., Inc. (In re Craig’s Stores of Tex., Inc.)*, 266 F.3d 388, 390 (5th Cir. 2001).

It is the equivalent of General Motors releasing the post-confirmation entity from liability for manufacturing defects for cars it sells after bankruptcy. Nor is this concern an academic one. As the Debtor’s CEO testified at the confirmation hearing, the Debtor lost approximately \$200 million in value during its bankruptcy case, at least \$100 million of which the CEO blamed on the Debtor’s prior (yet post-bankruptcy) manager.<sup>32</sup>

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<sup>30</sup> *Id.* (sub. iv).

<sup>31</sup> Appx. 350 (Tr. 189:3-9).

<sup>32</sup> Appx. 256-59 (Tr. 95:17-98:6); Appx. 361 (Tr. 200:16-19).

Next, the Plan contains a sweeping, permanent injunction: “all Enjoined Parties<sup>33</sup> are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.”<sup>34</sup> Of immediate relevance and effect on the Movants, this means that the Movants are enjoined from advising or causing their clients, including the Funds, to remove the Debtor as the manager of the CLOs, even though the Debtor assumed the PMAs and even if the Debtor mismanages the CLOs.<sup>35</sup>

As with exculpations, *Pacific Lumber* broadly foreclosed non-consensual “permanent injunctions.” *In re Pacific Lumber Co.*, 584 F.3d at 252-53. More technically, the assumption of the PMAs means that the Debtor is obligated to perform under them and all rights of the counterparty are preserved and may be enforced: “[w]here the debtor assumes an executory contract, it must assume the entire contract, cum onere – the debtor accepts both the obligations and the benefits of the executory contract.” *In re Nat’l Gypsum Co.*, 208 F.3d at 505-06. The Debtor here found a clever way around this fundamental rule by simply obtaining an injunction that permanently enjoins and alters contract rights and obligations, in direct violation of the Bankruptcy Code.

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<sup>33</sup> The Movants are “Enjoined Parties.” Appx. 105.

<sup>34</sup> Appx. 147.

<sup>35</sup> Appx. 359 (Tr. 198:12-25).

This injunction, prohibiting “any actions to interfere with the implementation or consummation of the Plan,” is also both overbroad and vague. *See Scott v. Schedler*, 826 F.3d 207, 211-12 (5th Cir. 2016) (“an injunction is overly vague if it fails to satisfy the specificity requirements . . . and it is overbroad if it is not narrowly tailored to remedy the specific action”). The Movants should not be subjected to potential contempt actions when the Plan fails to define with any reasonable specificity what it means to “interfere” with the “implementation or consummation” of the Plan.

With respect to the “gatekeeper injunction,” the Movants are included within the “Enjoined Parties” subject to that injunction, which injunction prohibits the Movants from taking various actions, including to sue any of the “Protected Parties.”<sup>36</sup> The “Protected Parties” include the same entities that are exculpated as discussed above.<sup>37</sup> Like the exculpation provision, this injunction effectuates a non-consensual, non-debtor release prohibited by *Pacific Lumber* because the Movants are enjoined from suing the Protected Parties *even for* claims based on “bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence.”<sup>38</sup> *See In re Pacific Lumber Co.*, 584 F.3d at 252-53.

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<sup>36</sup> Appx. 105 (“Enjoined Parties”); Appx. 110 (“Protected Parties”); Appx. 147 (F. Injunction).

<sup>37</sup> Appx. 110.

<sup>38</sup> Appx. 147-48.

This injunction is not saved by the fact that the Bankruptcy Court may grant relief from the injunction if it first determines that an Enjoined Party has a “colorable claim” against a “Protected Party.” Nothing in the Bankruptcy Code possibly permits the Bankruptcy Court to require a non-debtor to come to it and prove that it has a viable claim against another non-debtor before it can assert that claim, or else be in contempt of court. And this, too, applies *prospectively* to actions the Debtor will take in the next two to three years during the “wind down of the business of the Debtor or Reorganized Debtor” and the “the administration of the Claimant Trust.”<sup>39</sup> This is unprecedented, it violates due process, it is a taking, and it is prohibited by *Pacific Lumber*.

The Bankruptcy Court also impermissibly reserved to itself the “sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable.”<sup>40</sup> It is black-letter law that the Bankruptcy Court has no such jurisdiction between non-debtors today, and will certainly have no such jurisdiction in the future as the Plan is implemented. *See In re Craig’s Stores of Tex. Inc.*, 266 F.3d at 390 (“After a debtor’s reorganization plan has been confirmed, the debtor’s estate, and thus bankruptcy jurisdiction, ceases to exist, other than for matters pertaining to the implementation or execution of the plan.”). And it is certainly

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

black-letter law that the Bankruptcy Court cannot confer onto itself jurisdiction that it does not have.

The end result is that the Movants, and many others, are enjoined *permanently* from exercising their legal and contractual rights; that potential present and *prospective* claims they have against non-debtors are released and exculpated; and that they are required to prove a “colorable” claim for any present or *prospective* claim they may have against non-debtors before they may assert that claim, while the Debtor and its management, officers, and others are free to manage billions of dollars of innocent investors’ funds, taking very large fees for themselves, effectively free from the fiduciary duties imposed on them by the federal securities laws. This is precisely what *Pacific Lumber* prohibits, and the wisdom of *Pacific Lumber*’s prohibition is aptly proven by this case.

The Bankruptcy Court attempted to distinguish *Pacific Lumber*.<sup>41</sup> In fact, the Bankruptcy Court stated its belief that this Court would “extend the holding of *Pacific Lumber*” with respect to the proper scope of an exculpation provision.<sup>42</sup> But if the holdings and limitations of *Pacific Lumber* must be extended in order for the Plan’s exculpation provision to be permissible, then the Movants have demonstrated a likelihood of success on the merits of this issue *per se*.

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<sup>41</sup> Appx. 744-56.

<sup>42</sup> Appx. 865 (Tr. 70:10-24).

**iii. The Plan Violates the Absolute Priority Rule.**

Creditors vote by class under a Chapter 11 plan. *See* 11 U.S.C. § 1126(c). Class 8—unsecured creditors—rejected the plan.<sup>43</sup> As the Plan does not pay Class 8 in full<sup>44</sup> and Class 8 rejected the Plan, the Plan could only be confirmed if the Debtor satisfied the “Absolute Priority Rule.” Under the Absolute Priority Rule, the holder of any junior interest—*e.g.*, an equity interest—cannot “receive or retain ... any property” on account of its junior interest. 11 U.S.C. § 1129(b)(2)(B)(ii).

Here, the Plan violates the Absolute Priority Rule as a matter of law because the Plan gives the Debtor’s limited partners—*i.e.*, junior interest holders—contingent interests in the “Claimant Trust” created under the Plan to pay creditors and, after they are paid in full, to pay equity holders.<sup>45</sup> There is no question that those contingent trust interests are “property” as admitted by the Debtor at trial: “These are contingent interests. They are property. No doubt they are property.”<sup>46</sup> The Debtor’s CEO also testified that the contingent interests are, in his belief, inchoate property interests which may have some value in the future.<sup>47</sup> As a matter of law, an interest in a trust, even one subject to a contingency that may never

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<sup>43</sup> Appx. 6. One of the Movants, NexPoint Advisors, L.P., is a partial assignee of four Class 8 Claims. Appx. 777-87.

<sup>44</sup> Appx. 41.

<sup>45</sup> Appx. 120.

<sup>46</sup> Appx. 698 (242:19-20).

<sup>47</sup> Appx. 339 (178:22-25).



happen, is “property.” *See In re Edmonds*, 273 B.R. 527, 529 (Bankr. E.D. Mich. 2000). The Plan therefore violates the Absolute Priority Rule because equity holders retain or receive “property” under the Plan.

The Debtor argued that these contingent interests may have no value and would only vest and be paid if unsecured creditors are paid in full, thus satisfying the Absolute Priority Rule.<sup>48</sup> But the United States Supreme Court has squarely rejected this argument:

Respondents further argue that the absolute priority rule has no application in this case, where the property which the junior interest holders wish to retain has no value to the senior unsecured creditors. . . . We join with the overwhelming consensus of authority which has rejected this ‘no value’ theory. . . . Whether the value is present or prospective, for dividends or only for purposes of control a retained equity interest is a property interest. . . . And while the Code itself does not define what ‘property’ means as the term is used in § 1129(b), the relevant legislative history suggests that Congress’ meaning was quite broad. Property includes both tangible and intangible property.

*Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 207-08 (1988) (internal quotations and citations omitted). Thus, it does not matter that the property may be prospective, intangible, or valueless.

The Bankruptcy Court relied on *In re Introgen Therapeutics*, 429 B.R. 570 (Bankr. W.D. Tex. 2010), for the proposition that, so long as the contingent interests are not paid unless and until all unsecured claims are paid in full, the

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<sup>48</sup> Appx. 45.

Absolute Priority Rule is satisfied. This opinion was wrongly decided and has never been adopted by this Court or any appellate court.

First, it directly contradicts the language of the Bankruptcy Code, which implicates the Absolute Priority Rule if *any* “property” is being retained or received. Second, the opinion looked to the present value of what was being retained, something directly foreclosed by the Supreme Court’s opinion in *Norwest Bank Worthington* quoted above. Third, the opinion fails to take into account the Supreme Court’s opinion in *Bank of Am. Nat’l Trust & Sav. Ass’n v. 203 N. Lasalle P’ship*, 526 U.S. 434 (1999). There the Supreme Court equated the exclusive opportunity to bid on new equity under a plan as itself “property” that was being granted or retained in violation of the Rule: “[t]his opportunity should, first of all, be treated as an item of property in its own right.” *Id.* at 455. If an exclusive opportunity is “property” for purposes of the Absolute Priority Rule, then so is an “opportunity” to share in a future recovery, however remote.

**(iv) Conclusion.**

At a minimum, the Movants have shown that a “serious legal question is involved and [that] the balance of the equities weighs heavily in favor of granting the stay.” *Tex. Democratic Party v. Abbott*, 961 F.3d at 397. Permanent federal injunctions; a court exculpating someone of potential liability; a court requiring someone to come before it and prove that a claim is “colorable” before he may

have access to the courts; violating the Absolute Priority Rule—all of these are “serious legal questions.” And, given that the Bankruptcy Court ignored the dictates of *Pacific Lumber*, and that billions of dollars of investments from thousands of innocent investors are at stake, whose claims are released and who are enjoined from exercising their legal rights and remedies *after* bankruptcy, “the equities weighs heavily in favor of granting the stay.”

Simply put, debtors and bankruptcy courts must not be permitted to use expediency to trample on legal rights, in the belief that appeals will become moot rendering appellate review unlikely. The Confirmation Order represents such clear errors of law and such a “substantial case on the merits” that the Court need not even consider the remaining factors governing a discretionary stay pending appeal under the authority of *Weingarten Realty Investors*, 661 F.3d at 910. Nevertheless, the Movants address such other factors below.

**C. MOVANTS WILL SUFFER IRREPARABLE INJURY WITHOUT A STAY**

First, there is the threat of equitable mootness, which this Court applies to Chapter 11 confirmation orders to dismiss appeals because it may be effectively too late to “unscramble the eggs.” *See, e.g., In re Blast Energy Services, Inc.*, 593 F.3d 418, 424 (5th Cir. 2010). Indeed, this Court has recognized potential issues with denying a stay pending appeal:

Although the exigencies of the case appeared to demand prompt action, simply denying a stay seems to have been, and often will be,

too simplistic a response. A plan may be designed to take effect, as it was here, after a lapse of sufficient time to initiate appellate review. A supersedeas bond may be tailored to the scope of the appeal. An appeal may be expedited. As with all facets of bankruptcy practice, myriad possibilities exist. Thus, substantial legal issues can and ought to be preserved for review.

*Bank of New York Trust Co., N.A. v. Official Unsecured Creditors' Comm. (In re Pacific Lumber Co.)*, 584 F.3d 229, 243 (5th Cir. 2009). This is all the more important here where the order of the Article I bankruptcy court should be reviewed on its merits by an Article III court.

Second, the various release, exculpation, and injunction provisions of the Plan detailed above will lead to irreparable injury if the Movants are unable to exercise their contractual rights or take other action to protect their interests and those of the investments they manage. Being enjoined from doing what one otherwise has the lawful right to do is irreparable injury as a matter of law. *C.f. Associated Press v. Otter*, 682 F.3d 821, 826 (9th Cir. 2012); *Cooper v. U.S. Postal. Serv.*, 246 F.R.D. 415, 418 (D. Conn. 2007).

The Debtor has testified that it intends to liquidate and wind down the CLOs in approximately two years.<sup>49</sup> During that time, if the Movants dispute how the Debtor is doing so, or believe they have claims against the Debtor for its conduct, or wish to advise or cause their clients to take action against the Debtor on account of the same, the Plan will prohibit them from doing so, and the Debtor and its

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<sup>49</sup> Appx. 273 (line 5); Appx. 343 (line 5).

management will be exculpated. Absent a stay pending appeal, by the time that the Movants may ultimately prevail on their appeal, various rights will effectively have been lost for good.

**D. DEBTOR AND CREDITORS WILL NOT BE UNDULY PREJUDICED BY A STAY**

The Plan does not involve exit financing, a sale of the business, new investments, new money coming in, nor anything else that the Debtor does not already have to monetize its assets for the benefit of its creditors.<sup>50</sup> As the Debtor’s CEO confirmed at trial, “post-confirmation, you are basically going to continue managing the CLOs and funds and trying to monetize assets for creditors the same as you are today.”<sup>51</sup> He does not “need anything in the plan that [he] does [not] have today to keep managing” the “Funds and the CLOs.”<sup>52</sup>

Thus, because the Plan does not give the Debtor anything that it lacks at present to continue monetizing its assets, managing the CLOs, and doing everything else it would under the Plan, the Debtor and its other creditors will not suffer any prejudice if a stay pending appeal is granted. In this respect, the Court should take into account that 27 Class 8 creditors rejected the Plan, while only 17 accepted the Plan.<sup>53</sup> It is the unsecured creditors who would be the only ones

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<sup>50</sup> Appx. 346 (185:3-188:5).

<sup>51</sup> Appx. 349 (188:2-5).

<sup>52</sup> *Id.* (188:23-189:2).

<sup>53</sup> Appx. 6.

potentially prejudiced if the Plan is stayed, as that may delay their recoveries, but Class 8 overwhelmingly rejected the Plan.

**E. THE PUBLIC INTEREST IS SERVED BY A STAY PENDING APPEAL**

Because the Plan's exculpation and injunction provisions impermissibly infringe upon the contractual, legal, and due-process rights of parties in interest in the bankruptcy case, a stay pending appeal will serve the public interest. Thousands of innocent investors have invested in the CLOs or funds that the Debtor manages, totaling well over \$1 billion, including \$140 million for just the Funds that the Movants manage. A stay will ensure that non-debtor parties can be held accountable for their post-petition and post-confirmation conduct. The public has a strong interest, for example, in ensuring that the Debtor complies with federal securities laws. But the Plan's exculpation provision and injunction threaten to substantially vitiate these laws and effectively relieve the Debtor from its obligations and duties (and potential liabilities) thereunder.

The public interest is also best served by requiring respect for judicial precedent, here *Pacific Lumber*. While the Bankruptcy Court believed that this Court will revisit its *Pacific Lumber* holdings and will expand *Pacific Lumber*, at present *Pacific Lumber* is the law, and the Bankruptcy Court was bound by it. This Court should not permit a Plan that clearly and directly violates *Pacific Lumber* to become effective before addressing the merits of this appeal.



**F. SECURITY FOR STAY PENDING APPEAL**

The Court may, but need not, condition a stay pending appeal on a bond or other security being posted. *See* FED. R. BANKR. P. 8007(c). Because: (i) the Plan so clearly violates *Pacific Lumber*; (ii) the Plan so clearly violates the Absolute Priority Rule; (iii) there is the threat of equitable mootness; and (iv) the Debtor and creditors would not be harmed by a stay pending appeal, the Movants should not be required to post a bond as a condition to obtaining a stay. Indeed, the Debtor argued below for a multi-hundred-million dollar bond, clearly designed *not* to protect other parties but to effectively *prevent* a stay pending appeal as no legitimate appellant should be required to post the entire amount of debt in a bankruptcy case as a condition of obtaining meaningful appellate relief.

The only conceivable harm pending appeal is from a delay in payments to certain creditors and minor added administrative expenses for having to file reports and pleadings with the Bankruptcy Court. If the Plan is affirmed, then those creditors would not have use of those funds for a period of time. Here, the Debtor believes that it will distribute approximately \$60 million to Class 7 and Class 8 creditors within one year of the Plan going effective, which so far it has not.<sup>54</sup> As unsecured creditors, these creditors would be entitled to interest at the federal rate of post-judgment interest. *See Dropbox, Inc. v. Thru, Inc. (In re Thru, Inc.)*, 782

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<sup>54</sup> Appx. 766.

Fed. Appx. 339, 341 (5th Cir. 2019). That rate is presently less than 1% and is unlikely to rise past that amount during the period of any stay. Thus, the interest that any creditor may be able to claim for any delay in payment is less than 1%, or less than \$600,000.00. With respect to increased administrative costs for having to file reports and pleadings with the Bankruptcy Court, the Movants estimate that it cannot reasonably cost the Debtor more than \$150,000.00 per month to have to continue filing reports and pleadings with the Bankruptcy Court that it would no longer have to do under its Plan.

Assuming this Court resolves this appeal within twelve months, the Movants therefore submit that a bond or security of no more than \$2.4 million is sufficient to protect the Debtor and its estate from any harm resulting from the delay in the effectiveness of the Plan.

#### IV. CONCLUSION

WHEREFORE, premises considered, the Movants request that the Court enter an Order: (i) staying the effectiveness of the Confirmation Order pending appeal; and (ii) granting such other relief as is just and proper.

RESPECTFULLY SUBMITTED this the 19th day of May, 2021.

**MUNSCH HARDT KOPF & HARR, P.C.**

By: /s/ Davor Rukavina  
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**COUNSEL FOR HIGHLAND CAPITAL  
MANAGEMENT FUND ADVISORS,  
L.P., AND NEXPOINT ADVISORS, L.P.**

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that he discussed the relief requested herein with Jeff Pomerantz, Esq., counsel of record for the Debtor, who informed the undersigned that the Debtor opposes said relief.

/s/ Davor Rukavina  
Davor Rukavina

**CERTIFICATE OF COMPLIANCE**

The undersigned hereby certifies that this Petition complies with Rule 27(d)(2) because it contains 5,176 words, excepting those portions that may be excepted under Rule 32(f).

/s/ Davor Rukavina  
Davor Rukavina

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on this the 19th day of May, 2021, true and correct copies of this document, with any exhibits attached thereto, were served on the recipients listed below via email.

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/s/ Davor Rukavina  
Davor Rukavina

## **EXHIBIT 19**

# United States Court of Appeals

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

June 21, 2021

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 21-10449 NexPoint v. Highland Capital Mgmt  
USDC No. 19-34054  
USDC No. 3:21-CV-538

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

*Lisa E. Ferrara*

By: \_\_\_\_\_  
Lisa E. Ferrara, Deputy Clerk  
504-310-7675

Mr. Zachery Z. Annable  
Mr. Robert P. Colwell  
Mr. Douglas Scott Draper  
Mr. David R. Fine  
Ms. Melissa Sue Hayward  
Mr. Jeffrey N. Pomerantz  
Mr. Davor Rukavina  
Mr. Clay Marshall Taylor  
Mr. Julian Preston Vasek



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# United States Court of Appeals for the Fifth Circuit

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No. 21-10449

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NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT  
FUND ADVISORS, L.P.,

*Appellants,*

*versus*

HIGHLAND CAPITAL MANAGEMENT, L.P.,

*Appellee.*

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Appeal from the United States Bankruptcy Court  
for the Northern District of Texas  
USDC No. 19-34054

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Before DENNIS, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that appellants Highland Capital Management Fund Advisors, L.P. and Nexpoint Advisors, L.P.'s motion for stay pending appeal is DENIED.

001747

## **EXHIBIT 20**

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

In re: §  
§  
HIGHLAND CAPITAL MANAGEMENT, §  
L.P., § Bankruptcy Case No. 19-34054  
§  
Debtor. §  
\_\_\_\_\_ §

HIGHLAND CAPITAL MANAGEMENT §  
FUND ADVISORS, L.P. and NEXPOINT §  
ADVISORS, L.P., §  
§  
Appellants, §  
§  
v. § Civil Action No. 3:21-cv-538-N  
§

HIGHLAND CAPITAL MANAGEMENT, §  
L.P., §  
§  
Appellee. §  
\_\_\_\_\_ §

HIGHLAND GLOBAL ALLOCATION §  
FUND, HIGHLAND INCOME FUND, §  
NEXPOINT CAPITAL, INC., and §  
NEXPOINT STRATEGY §  
OPPORTUNITIES FUND §  
§  
Appellants, §  
§  
v. § Civil Action No. 3:21-cv-539-N  
§

HIGHLAND CAPITAL MANAGEMENT, §  
L.P., §  
§  
Appellee. §  
\_\_\_\_\_ §

JAMES DONDERO, §  
§  
Appellant, §  
§  
§



v. § Civil Action No. 3:21-cv-546-N  
§  
HIGHLAND CAPITAL MANAGEMENT, §  
L.P., §  
§  
Appellee. §

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THE DUGABOY INVESTMENT TRUST §  
AND GET GOOD TRUST §  
§  
Appellants, §

v. § Civil Action No. 3:21-cv-550-N  
§  
HIGHLAND CAPITAL MANAGEMENT, §  
L.P., §  
§  
Appellee. §

**ORDER**

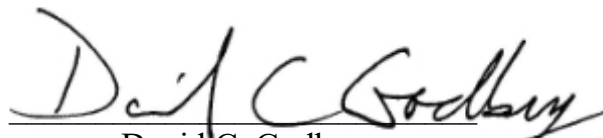
This Order addresses Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P. (collectively, the “Advisors”), The Dugaboy Investment Trust, and Get Good Trust’s motion for stay pending appeal. The Court denies the motion.

This is a bankruptcy case concerning Highland Capital Management, L.P. On February 22, 2021, the Bankruptcy Court entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order”). Appellants filed motions for stay in the Bankruptcy Court and initiated four separate appeals of the Confirmation Order to this Court. The Bankruptcy Court denied the motions for stay and certified a direct appeal to the Fifth Circuit. The Advisors then filed this motion for stay pending the outcome of their

appeal to the Fifth Circuit. The Dugaboy Investment Trust and the Get Good Trust then filed a motion adopting the Advisors' motion.

Shortly after this motion became ripe, the Advisors filed a similar motion to the Fifth Circuit. The Fifth Circuit ultimately denied that motion. *See Order, NexPoint v. Highland Capital Mgmt., No. 21-10449 (5th Cir. June 21, 2021)*. Because the Fifth Circuit has already reviewed and denied a motion with identical arguments, the Court denies this motion for stay pending appeal.

Signed June 23, 2021.

  
David C. Godbey  
United States District Judge

## **EXHIBIT 21**





*Pro Tunc* (the “Order of Reference”) and referring this case to the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”). In support of its Motion, the Debtor states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion pursuant to section 1334(a) and (b) of title 11 of the United States Code (the “Bankruptcy Code”).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.
3. The predicates for the relief requested in the Motion are 28 U.S.C. § 157(a) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the Bankruptcy Rules).

### **RELIEF REQUESTED**

4. The Debtor requests that this Court issue the proposed form of order attached as **Exhibit A** (the “Proposed Order”) pursuant to 28 U.S.C. § 157(a).
5. For the reasons set forth more fully in *Defendant Highland Capital Management, L.P.’s Memorandum of Law in Support of Motion for an Order to Enforce the Order of Reference* (the “Memorandum of Law”), filed contemporaneously with this Motion, the Debtor requests that the Court: (a) enforce the Order of Reference and refer this case to the Bankruptcy Court, and (b) grant the Debtor such other and further relief as the Court deems just and proper under the circumstances.
6. In accordance with Rule 7.1 of the *Local Civil Rules of the United States District Court for the Northern District of Texas* (the “Local Rules”), contemporaneously herewith and in support of this Motion, the Debtor is filing: (a) its Memorandum of Law, and (b) the *Declaration of Gregory V. Demo Submitted in Support of the Debtor’s Motion for an Order to Enforce the Order of Reference* (the “Demo Declaration”) together with the exhibits annexed thereto.

7. Based on the exhibits annexed to the Demo Declaration and the arguments contained in the Memorandum of Law, the Debtor is entitled to the relief requested herein as set forth in the Proposed Order.

8. Notice of this Motion has been provided to all parties. The Debtor submits that no other or further notice need be provided.

WHEREFORE, the Debtor respectfully requests that the Court (i) enter the Proposed Order substantially in the formed annexed hereto as **Exhibit A** granting the relief requested herein, and (ii) grant the Debtor such other and further relief as the Court may deem proper.

*[Remainder of Page Intentionally Blank]*

Dated: May 19, 2021

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No. 143717)  
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-and-

**HAYWARD PLLC**

*/s/ Zachery Z. Annable*

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*Counsel for Highland Capital Management, L.P.*

**EXHIBIT A**

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

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.

Defendants.

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Case No. 3:21-cv-00842-B

**ORDER GRANTING MOTION FOR  
AN ORDER TO ENFORCE THE ORDER OF REFERENCE**

Before the Court is *Defendant Highland Capital Management L.P.’s Motion for an Order to Enforce the Order of Reference* [Docket No. \_\_\_] (the “Motion”).<sup>1</sup> Having considered: (a) the Motion; (b) *Defendant Highland Capital Management, L.P.’s Memorandum of Law in Support of Motion for an Order to Enforce the Order of Reference* (the “Memorandum of Law”); and (c) the *Declaration of Gregory V. Demo Submitted in Support of the Debtor’s Motion for an Order to Enforce the Order of Reference* [Docket No. \_\_\_] (the “Demo Declaration”) and the exhibits annexed thereto; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that: (a) this case arises under title 11 of the United States Code; (b) this case is a core proceeding under 28 U.S.C. § 157(b); (c) reference to the Bankruptcy Court of the Complaint is mandatory under the plain

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Memorandum of Law.



language of the Order of Reference; (d) the Bankruptcy Court retains jurisdiction over all disputes relating to this Complaint; (e) the Bankruptcy Court retains jurisdiction to interpret and enforce its own orders; (f) there is no basis for a mandatory withdrawal of reference of this Complaint; and (g) the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties-in-interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. This proceeding is hereby referred to the Bankruptcy Court.

**It is so ordered** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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The Honorable Jane J. Boyle  
United States District Judge

## **EXHIBIT 22**

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John A. Morris (NY Bar No. 266326)  
Gregory V. Demo (NY Bar No. 5371992)  
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*Counsel for Highland Capital Management, L.P.*

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

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.,

Plaintiffs,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.,

Defendants.

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Case No. 3:21-cv-00842-B

**DEFENDANT HIGHLAND CAPITAL MANAGEMENT, L.P.'S  
MOTION TO DISMISS COMPLAINT**

Highland Capital Management, L.P., the plaintiff in the above-captioned case (the “Debtor” or “Highland”), by and through its undersigned counsel, files this motion (the “Motion”)



seeking entry of an order dismissing the *Original Complaint* [Docket No. 1] (the “Complaint”) filed by Plaintiffs Charitable DAF Fund, L.P. (the “DAF”) and CLO Holdco, Ltd. (“CLOH”) (together, “Plaintiffs”). In support of its Motion, the Debtor states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion pursuant to section 1331 and 1367 of title 11 of the United States Code (the “Bankruptcy Code”).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.
3. The predicates for the relief requested in the Motion are 28 U.S.C. § 1391.

### **RELIEF REQUESTED**

4. The Debtor requests that this Court issue the proposed form of order attached as **Exhibit A** (the “Proposed Order”) pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.
5. For the reasons set forth more fully in Defendant Highland Capital Management, L.P.’s *Memorandum of Law in Support of Motion to Dismiss Complaint* (the “Memorandum of Law”), filed contemporaneously with this Motion, the Debtor requests that the Court: (a) dismiss the Complaint in its entirety and (b) grant the Debtor such other and further relief as the Court deems just and proper under the circumstances.
6. In accordance with Rule 7.1 of the *Local Civil Rules of the United States District Court for the Northern District of Texas* (the “Local Rules”), contemporaneously herewith and in support of this Motion, the Debtor is filing: (a) its Memorandum of Law, and (b) the *Appendix in Support of Defendant Highland Capital Management L.P.’s Motion to Dismiss the Complaint* (the “Appendix”) together with the exhibits annexed thereto.

7. Based on the exhibits annexed to the Appendix, and the arguments contained in the Memorandum of Law, the Debtor is entitled to the relief requested herein as set forth in the Proposed Order.

8. Notice of this Motion has been provided to all parties. The Debtor submits that no other or further notice need be provided.

WHEREFORE, the Debtor respectfully requests that the Court (i) enter the Proposed Order substantially in the formed annexed hereto as **Exhibit A** granting the relief requested herein, and (ii) grant the Debtor such other and further relief as the Court may deem proper.

Dated: May 27, 2021

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## **EXHIBIT A**

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

CHARITABLE DAF FUND, L.P., AND CLO  
 HOLDCO LTD.,

Plaintiffs,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
 HIGHLAND HCF ADVISOR, LTD., AND  
 HIGHLAND CLO FUNDING, LTD.,

Defendants.

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Case No. 3:21-cv-00842-B

**ORDER GRANTING MOTION TO DISMISS COMPLAINT**

Before the Court is *Defendant Highland Capital Management L.P.’s Motion to Dismiss the Complaint* [Docket No. \_\_\_] (the “Motion”).<sup>1</sup> Having considered: (a) the Motion; (b) Defendant Highland Capital Management, L.P.’s *Memorandum of Law in Support of Motion for an Order to Enforce the Order of Reference* [Docket No. \_\_\_] (the “Memorandum of Law”); and (c) the *Appendix in Support of Highland Capital Management’s Motion to Dismiss the Complaint* [Docket No. \_\_\_] (the “Appendix”) and the exhibits annexed thereto; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1331; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. § 1391; and this Court having found that the Complaint should be dismissed in its entirety because: (a) the Claims asserted therein are barred by the doctrine of *res judicata*; (b) the Claims are barred by the doctrine of judicial estoppel; and (c) the Complaint fails to allege any Claim for relief that is plausible for relief under Rule 12(b)(6) of the Federal Rules of Civil Procedure; and this Court having found that the Debtor’s

<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Memorandum of Law.

notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. This Complaint is dismissed in its entirety.

**It is so ordered** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

---

The Honorable Jane J. Boyle  
United States District Judge

## **EXHIBIT 23**

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*Counsel for the Debtor*

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

\_\_\_\_\_  
In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

)  
) Chapter 11  
)  
) Case No. 19-34054-sgj11  
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**NOTICE OF OCCURRENCE OF EFFECTIVE DATE OF  
CONFIRMED FIFTH AMENDED PLAN OF REORGANIZATION  
OF HIGHLAND CAPITAL MANAGEMENT, L.P.**

**PLEASE TAKE NOTICE** that on February 22, 2021, the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1943] (the “Confirmation Order”) confirming the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Docket No. 1808] (as

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



amended, supplemented, or modified, the “Plan”). Unless otherwise defined in this notice, capitalized terms used in this notice shall have the meanings ascribed to them in the Plan and the Confirmation Order, as applicable.

**PLEASE TAKE FURTHER NOTICE** that the Effective Date of the Plan occurred on August 11, 2021.

**PLEASE TAKE FURTHER NOTICE** that, except with respect to Administrative Expense Claims that are Professional Fee Claims or as otherwise set forth in the Plan, requests for payment of an Administrative Expense Claim must be Filed with the Bankruptcy Court **no later than forty-five (45) days after the Effective Date** (the “Administrative Expense Claims Bar Date”). **HOLDERS OF ADMINISTRATIVE EXPENSE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE EXPENSE CLAIMS BY THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE THAT DO NOT FILE AND SERVE SUCH A REQUEST BY THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE EXPENSE CLAIMS AGAINST THE DEBTOR OR THE REORGANIZED DEBTOR.**

**PLEASE TAKE FURTHER NOTICE** that, unless otherwise ordered by the Bankruptcy Court, all final requests for payment of Professional Fee Claims must be Filed **no later than sixty (60) days after the Effective Date.**

**PLEASE TAKE FURTHER NOTICE** that the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtor or the Reorganized Debtor, as applicable, and any and all Holders of Claims or Interests (regardless of whether such Claims or Interests are deemed to have accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan and Confirmation Order, including, without limitation: the injunction with respect to the commencement of claims and causes of action against Protected Parties set forth in Section IX.F of the Plan and Sections AA and BB of the Confirmation Order, the duration of injunction and stays set forth in Section IX.G of the Plan and Section AA of the Confirmation Order, and the continuance of the January 9 Order and July 16 Order set forth in Section IX.H of the Plan and Section CC of the Confirmation Order.

**PLEASE TAKE FURTHER NOTICE** that on the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor’s formation documents, including the Limited Partnership Agreement.

**PLEASE TAKE FURTHER NOTICE** that the Confirmation Order and the Plan



are available for inspection. If you would like to obtain copies you may: (a) access the Debtor's restructuring website at <http://www.kccllc.net/hcmlp>; (b) call toll free: (877) 573-3984 or international: (310) 751-1829; or (c) email HighlandInfo@kccllc.com and reference "Highland" in the subject line. You may also obtain copies of any pleadings filed in this case for a fee via PACER at: [pacer.uscourts.gov](http://pacer.uscourts.gov).

*[REMAINDER OF PAGE INTENTIONALLY BLANK]*

Dated: August 11, 2021.

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## **EXHIBIT 24**

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*Counsel for Highland Capital Management, L.P.*

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

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.

Defendants.

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Case No. 3:21-cv-00842-B

**DEFENDANT HIGHLAND CAPITAL MANAGEMENT, L.P.'S  
MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR  
AN ORDER TO ENFORCE THE ORDER OF REFERENCE**

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Highland Capital Management, L.P., a defendant in the above-captioned case (the “Debtor” or “Highland”), submits this memorandum of law (the “Memorandum”) in support of the *Debtor’s Motion for an Order to Enforce the Order of Reference* (the “Motion”). In support of its Motion, the Debtor states as follows:

### **PRELIMINARY STATEMENT**<sup>1</sup>

1. Highland is the debtor and debtor-in-possession in a bankruptcy case currently pending in the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”), Case No. 19-34054-sgj11 (the “Bankruptcy Case”). The Bankruptcy Case has been pending since October 16, 2019, having been filed at the direction of James Dondero, who, on information and belief, is the person controlling and directing the actions of both The Charitable DAF Fund, L.P. (the “DAF”) and CLO Holdco, Ltd. (“CLOH” and together with the DAF, “Plaintiffs”) today. Both the DAF and CLOH have appeared and objected multiple times in the Bankruptcy Case.

2. In one of those matters, the Bankruptcy Court approved a settlement between the Debtor and HarbourVest<sup>2</sup> (the “Settlement”) pursuant to 11 U.S.C. §§ 105 and 363 of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) over the objections of CLOH, a Plaintiff in this action, as well as other entities owned and/or controlled by Mr. Dondero. The Settlement is on appeal.<sup>3</sup>

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<sup>1</sup> Concurrently herewith, the Debtor is filing the *Appendix in Support of the Debtor’s Motion to Enforce the Reference* (the “Appendix”). Citations to the Appendix are notated as follows: Appx. #. The Complaint is Appx. 1.

<sup>2</sup> “HarbourVest” collectively refers to the following entities: HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.

<sup>3</sup> The Settlement is being appealed by Mr. Dondero’s two purported family investment trusts: The Dugaboy Investment Trust (“Dugaboy”) and The Get Good Trust (“Get Good” and together with Dugaboy, the “Trusts”). The Trusts, like Plaintiffs, are controlled by Mr. Dondero. The appeal and this litigation are just one battle in Mr. Dondero’s multifaceted litigation assault on the bankruptcy process.

3. Plaintiffs filed their *Original Complaint* (the “Complaint”)<sup>4</sup> in this Court seeking to have this Court undertake a *de facto* appeal or reconsideration of the Settlement and to assert monetary claims for actions undertaken in the Bankruptcy Case. However, the *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc* (the “Order of Reference”) (Appx. 2) in force in the Northern District of Texas required that this action be filed with the Bankruptcy Court presiding over the Bankruptcy Case. The Order of Reference was entered in 1984 and directs courts in this District to refer all proceedings arising under Title 11 and/or arising in or related to a case under Title 11 to the bankruptcy courts. A mandatory application of the Order of Reference prevents a race to the courthouse and inconsistent rulings by providing one forum to adjudicate *all* aspects of a bankruptcy case. Otherwise, debtors and creditors could blatantly forum shop and choose whether to file cases or claims in the bankruptcy court or the district court to evade what may be perceived as an unwelcoming court – which is precisely what has occurred in this case.<sup>5</sup> Here, the case for enforcing the Order of Reference is compelling. The Complaint addresses issues that not only arise in, arise under, and relate to Title 11 but which have already been adjudicated by the Bankruptcy Court. By this Motion, the Debtor requests that this Court enforce the Order of Reference and refer the Complaint to the Bankruptcy Court for adjudication

4. The reason Plaintiffs filed the Complaint in this Court – rather than in the Bankruptcy Court – is obvious. Plaintiffs, under the direction of the Debtor’s ousted founder, Mr.

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<sup>4</sup> The Complaint contains a number of errors and material omissions, misstatements, misrepresentations, and mischaracterizations. The Debtor believes the Complaint is frivolous and should be dismissed on numerous grounds. The Debtor reserves all rights to contest the substance of the Complaint and intends to promptly inform Plaintiffs’ counsel that the Debtor will seek sanctions if the Complaint is not withdrawn.

<sup>5</sup> Plaintiffs justify their conduct by contending that under the 1984 Amendments to the Bankruptcy Code, the Bankruptcy Court is a “unit” of this Court. Hence, in Plaintiffs’ minds, the courts are indistinguishable and interchangeable and Plaintiffs can pick and choose where to file. That is not the law and would render the Order of Reference a nullity.

Dondero, have found little traction in the Bankruptcy Court for the serial, frivolous, and vexatious litigation positions they have taken in more than a dozen pending matters in the Bankruptcy Case and their attempts to interfere with the Debtor’s business operations – actions that have cost the Debtor millions. Plaintiffs therefore determined their best course of action was to engage in blatant forum shopping with the goal of re-opening settled litigation and closed factual records in a court Plaintiffs hope will be more hospitable.<sup>6</sup> The Debtor will vigorously defend this action as (a) a flagrant attack on the Bankruptcy Court; (b) a frivolous attempt to avoid settled principals of bankruptcy jurisdiction through (less than) clever pleading; and (c) barred by *res judicata*. The Debtor have also sought to hold Plaintiffs and their counsel, among others, in civil contempt for attempting to add Mr. James P. Seery, Jr., the Debtor’s independent, Bankruptcy Court-appointed CEO and CRO, as a defendant in this Case in clear violation of two final Bankruptcy Court orders.<sup>7</sup>

5. The fact that the Complaint was not automatically referred to the Bankruptcy Court is attributable to a blatant omission by Plaintiffs in Section VIII of their Civil Cover Sheet (Appx. 3). Because this action is undoubtedly “related to” the Bankruptcy Case and the pending appeal of the Settlement, Plaintiffs’ attorneys were required to disclose that a “related case” to the Complaint existed – as that term is used in the Local Civil Rules, effective September 1, 2020, of the Northern District of Texas (the “Local Rules”). Plaintiffs’ failure to make such disclosure could not have

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<sup>6</sup> The Complaint is not the first time that Plaintiffs have attempted to disenfranchise the Bankruptcy Court. On March 18, 2021, Mr. Dondero, Plaintiffs, and other entities owned and/or controlled by Mr. Dondero filed *James Dondero, Highland Capital Management Fund Advisors, L.P., NexPoint Advisors, L.P., The Dugaboy Investment Trust, The Get Good Trust, and NexPoint Real Estate Partners, LLC, f/k/a HCRE Partners, LLC, a Delaware Limited Liability Company’s Motion to Recuse Pursuant to 28 U.S.C. § 455* [Docket No. 2060] (the “Recusal Motion”) pursuant to which they sought to recuse the Honorable Stacey Jernigan from the Bankruptcy Case. The Recusal Motion was denied by the Bankruptcy Court and has been appealed [Docket No. 2149].

<sup>7</sup> On April 19, 2021, filed *Plaintiff’s Motion for Leave to File First Amended Complaint in the District Court* (the “Seery Motion”) in this Court seeking leave to add Mr. Seery as a defendant, and, in response, on April 23, 2021, the Debtor filed *Debtor’s Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* [Docket No. 2247] (the “Contempt Motion”). The Bankruptcy Court ordered Plaintiffs, among others, to appear at an in person hearing on June 8, 2021, to show cause why they should not be held in contempt [Docket No. 2255] (the “Show Cause Order”).

been inadvertent. And Plaintiffs have also not been candid with the Bankruptcy Court. On May 14, 2021, Plaintiffs filed a response to the Show Cause Order inaccurately claiming they had made full disclosure to this Court.<sup>8</sup>

6. The Bankruptcy Court is the appropriate tribunal to address the Complaint as it clearly “arises under, arises in or relates to the Debtor’s Chapter 11 case and the Settlement. The Court should send Plaintiffs a strong message that (a) such gamesmanship is not acceptable; (b) the Order of Reference will be enforced; and (c) the Complaint will be immediately sent to the Bankruptcy Court where it belongs.

### **FACTUAL BACKGROUND**

#### **A. Plaintiffs’ Ownership and Control**

7. Plaintiffs are controlled and/or directed by Mr. Dondero, the Debtor’s ousted founder.<sup>9</sup> CLOH is an entity wholly owned and controlled by the DAF. Until at least mid-January 2021, Grant Scott, Mr. Dondero’s life-long friend and college roommate, was the sole director of the DAF and of CLOH (neither of which otherwise had any officers or employees).<sup>10</sup> As found by the Bankruptcy Court, Mr. Dondero has engaged in a coordinated litigation campaign against the Debtor both directly and through his related entities, including Plaintiffs, with the goal of

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<sup>8</sup> See *Response of the Charitable DAF Fund, L.P., CLO Holdco, Ltd., and Sbaiti & Company PLLC to Show Cause Order* [Docket No. 2313], pg. 3 (the “Bankruptcy Response”) (Appx. 28). In the Bankruptcy Response, Plaintiffs prognosticate about how this Court would rule: “... [the Debtor] seem[s] to have assumed that the Motion for Leave would be granted, and that the proposed amended complaint naming Seery would be referred to [the Bankruptcy] Court for a report and recommendation.” Appx. 28 at p. 12. If that were the case, Plaintiffs should have just filed in the Bankruptcy Court or, at the very least, disclosed the Bankruptcy Case in the Civil Cover Sheet.

<sup>9</sup> Mr. Dondero also controls, and has appeared in the Bankruptcy Case, through, among others, his two family investment trusts: Dugaboy and Get Good.

<sup>10</sup> Mr. Scott previously testified during a sworn deposition in the Bankruptcy Case that he had little knowledge of the investment and other activities of the DAF and CLOH and was effectively taking direction from Mr. Dondero with respect to their activities. Appx. 27, 11:10-25; 12:1-25; 13:1-25; 14:1-25; 15:1-25; 16:1-17.



“burn[ing] down the [Debtor].”<sup>11</sup> A list of the litigation caused by Mr. Dondero in the Bankruptcy Case since September 2020 is Appx. 4.

**B. HarbourVest’s Investment and Claims against the Debtor**

8. Prior to the commencement of the Bankruptcy Case, HarbourVest invested approximately \$80 million (the “Investment”) in HCLOF, a Guernsey-based limited company formed and managed by the Debtor and – prior to his ouster – Mr. Dondero. Immediately following the Investment, CLOH held 49.02% of HCLOF’s interests, HarbourVest held 49.98%, and the remaining 1% was held by the Debtor and certain current and former Debtor employees. After the Settlement, in which HarbourVest transferred its interests to a wholly-owned subsidiary of the Debtor, the Debtor’s interest in HCLOF was 50.18% and CLOH’s interest remained 49.02%.

9. HarbourVest filed Claims<sup>12</sup> in the Bankruptcy Case in excess of \$300 million. The Claims alleged HarbourVest was fraudulently induced into the Investment based on the material factual misrepresentations and omissions of Mr. Dondero and certain of his employees, including that the Debtor: (a) did not disclose it never intended to pay an arbitration award obtained by a former portfolio manager, Joshua Terry,<sup>13</sup> (b) did not disclose that Mr. Dondero and the Debtor

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<sup>11</sup> The Bankruptcy Court made substantial findings of facts regarding Mr. Dondero and his related entities’ (including Plaintiffs’) history of serial litigation in the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* (the “Confirmation Order”). The Confirmation Order is Appx. 5. See Appx. 5, ¶¶ 17-19, 77-78. The Confirmation Order approved the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Docket No. 1808] (as amended, the “Plan”), which included certain amendments. See *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)*, Ex. B [Docket No. 1875]. The Plan is attached to the Confirmation Order.

<sup>12</sup> “Claims” collectively refers: HarbourVest 2017 Global Fund L.P. (Claim No. 143), HarbourVest 2017 Global AIF L.P. (Claim No. 147), HarbourVest Dover Street IX Investment L.P. (Claim No. 150), HV International VIII Secondary L.P. (Claim No. 153), HarbourVest Skew Base AIF L.P. (Claim No. 154), and HarbourVest Partners L.P. (Claim No. 149). The Claims are Appx. 6.

<sup>13</sup> This award was entered in favor of Mr. Terry against a Debtor subsidiary, Acis Capital Management, L.P. (“Acis”). Instead of satisfying the award, the Dondero-controlled Debtor caused Acis to transfer its assets in an effort to become judgment proof. Mr. Terry filed an involuntary bankruptcy petition against Acis and, after intense litigation and the appointment of a chapter 11 trustee, confirmed a chapter 11 plan, which transferred Acis to Mr. Terry. These actions resulted in Acis filing a claim of not less than \$75 million (Claim No. 23) against the estate.

engaged in a series of fraudulent transfers for the purpose of preventing Mr. Terry from collecting on his arbitration award, (c) misrepresented why the investment manager for HCLOF was changed immediately prior to the Investment, (d) indicated the dispute with Mr. Terry would not impact investment activities, and (e) expressed confidence in HCLOF's ability to reset or redeem certain collateralized loan obligations ("CLOs"). The Claim also asserted causes of action under Racketeering Influenced Corrupt Organizations Act ("RICO") and breaches of fiduciary duty under Guernsey common law.

### C. The HarbourVest Settlement and Objections

10. On December 23, 2020, the Debtor filed its *Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith* [Docket No. 1625]<sup>14</sup> (the "Settlement Motion"), pursuant to which the Debtor sought Bankruptcy Court approval of the Settlement with HarbourVest pursuant to 11 U.S.C. §§ 105(a) and 363 and Bankruptcy Rule 9019. Appx. 7. The Debtor concurrently filed the proposed *Settlement Agreement and Transfer Agreement for Ordinary Shares of Highland CLO Funding, Ltd.* (the "Transfer Agreement") [Docket No. 1631-1]. Appx. 8. The Settlement Agreement expressly provided that it was subject to Bankruptcy Court approval. Appx. 7, ¶ 3.

11. Among the material terms of the Settlement was that HarbourVest would transfer its interest in Highland CLO Funding, Ltd. ("HCLOF") to the Debtor or its nominee (the "Transfer"). The Transfer was a necessary component of the Settlement. HarbourVest believed the misrepresentations entitled it to a rescission of its Investment, and HarbourVest wanted to extract itself from the Highland platform. The Settlement also provided HarbourVest with (a) an allowed, general unsecured claim in the amount of \$45 million, (b) a subordinated, allowed, general

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<sup>14</sup> Unless otherwise noted, all docket references refer to the docket maintained by the Bankruptcy Court.

unsecured claim in the amount of \$35 million, and (c) other consideration more fully described in the Settlement Agreement. *See* Appx. 7, ¶ 32.

12. The Settlement Motion fully disclosed all aspects of the Transfer, including (a) what HarbourVest was transferring; (b) the valuation (and method of valuation) of the asset being transferred to the Debtor; and (c) the method of the Transfer. (Appx. 7, ¶¶ 1(b) 32, 32 n.5; Appx. 8). Three objections were lodged against the proposed Settlement, all of which were filed by Mr. Dondero or entities controlled by him, including Plaintiff CLOH and Dondero’s Trusts. Each of those objections was coordinated by Mr. Dondero.<sup>15</sup>

**D. Plaintiffs Knew of the Transfer, and Plaintiff CLOH Objected to the Settlement**

13. On January 6, 2021, Mr. Dondero filed his *Objection to Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest* [Docket No. 1697] (Appx. 9) contending, among other things, that the Settlement: (a) was not “reasonable or in the best interests of the estate” because the Debtor was ***grossly overpaying*** and (b) amounted to “a blatant attempt to purchase votes in support of the Debtor’s plan.” *Id.*, ¶ 1. Mr. Dondero did not directly challenge the Transfer but made clear that he knew exactly what was being transferred and the valuation being placed on it: “As part of the settlement, HarbourVest will [] transfer its entire interest in [HCLOF] to an entity to be designated by the Debtor. The Debtor states that the value of this interest is approximately \$22 million as of December 1, 2020.” *Id.*, ¶ 1, n.3.

14. On January 8, 2021, Dondero’s Trusts filed their *Objection to the Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith*. [Docket No. 1706]. (Appx. 10) Like Mr. Dondero, the Trusts made clear that they knew of the proposed Transfer and its valuation. But,

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<sup>15</sup> *See Debtor’s Amended Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on January 8, 2021* [Adv. Proc. 21-03190-sgj, Docket No. 46], Exhibit Q.

unlike Mr. Dondero, the Trusts directly questioned (a) whether HarbourVest had the right to effectuate the Transfer, and (b) the valuation of the HCLOF interests – matters which are directly at issue in the Complaint.

15. Finally, and notably, on January 8, 2021, Plaintiff CLOH – presumably at the direction of its parent, the DAF – filed its *Objection to HarbourVest Settlement* [Docket No. 1707]. (Appx. 11) In its objection, CLOH challenged (as it does again in the Complaint) HarbourVest’s right to implement the Transfer contending, among other things, that: (a) CLOH and the other members of HCLOF had a “Right of First Refusal” under the Members Agreement (*Id.*, ¶ 3) and (b) “HarbourVest has no authority to transfer its interest in HCLOF without first complying with the Right of First Refusal” (*Id.*, ¶ 6). In support of these contentions, CLOH offered a lengthy analysis of the Members Agreement, including CLOH’s purported “Right of First Refusal” under Section 6.2 thereof. *Id.*, ¶¶ 9-22.

#### **E. The Dondero Parties Exercised their Right to Take Discovery**

16. By objecting to the Settlement Motion, Mr. Dondero, the Trusts, and CLOH (collectively, the “Dondero Objectors”) initiated a “contested matter” under Bankruptcy Rule 9014<sup>16</sup> and, accordingly, had the unfettered right to conduct discovery under Bankruptcy Rule 9014(c).<sup>17</sup> Thus, for example, the Dondero Objectors had the right to request documents from, and take the depositions of, the Debtor, HarbourVest, HCLOF, and/or Highland HCF Fund Advisor,

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<sup>16</sup> See also Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas 9014-1(a) (“a response is required with respect to a contested matter”).

<sup>17</sup> The Debtor filed the Settlement Motion on December 23, 2020, and set the hearing on the motion for January 14, 2021 [Docket No. 1626]. The DAF and CLOH allege that the Debtor “set the hearing right after the Christmas and New Year’s holidays, almost ensuring that no party would have the time to scrutinize the underpinnings of the deal.” Appx. 1, ¶ 30. This is a bald lie (one of many) and absurd. The undisputed facts are that (a) the Settlement Motion was filed on regular notice; (b) no one requested or moved for an extension of the hearing date; and (c) no one contended they had insufficient time to “scrutinize the underpinnings of the deal” (at least until the filing of the Complaint).

Ltd. (“HCFA”)<sup>18</sup> concerning the Settlement Motion, their objections thereto, and the Debtor’s valuation of HarbourVest’s interest in HCLOF and the method of valuation.

17. The Dondero Objectors – all sophisticated parties represented by sophisticated counsel – exercised their discovery rights.<sup>19</sup> In particular, Mr. Dondero and CLOH conducted a three and a half hour deposition of Michael Pugatch, a representative of the HarbourVest claimants [Docket No. 1705]. (Appx. 12) However, none of the Dondero Objectors, including Plaintiffs, exercised their right to take discovery from the Debtor, HCLOF, or HCFA in connection with the Settlement Motion, except for informal requests for documents which were provided.

18. Notably, despite the issue of the Transfer being “front and center,” none of the Dondero Objectors, including Plaintiffs, ever asserted (as Plaintiffs do now) that: (a) the Debtor had a fiduciary duty to offer the HCLOF interests to CLOH, or (b) the Investment Advisers Act of 1940 (the “Advisers Act”) was implicated in any way by the proposed Settlement, including the proposed Transfer. Further, although CLOH argued that the Members Agreement gave CLOH a right of first refusal, CLOH, in connection with the Settlement, never offered to buy the HCLOF interests or stated that it wanted to purchase those interests.

#### **F. The Bankruptcy Court Approves the Settlement**

19. On January 13, 2021, the Debtor filed its *Omnibus Reply in Support of Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith* [Docket No. 1731] (the “Omnibus

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<sup>18</sup> HCLOF, HCFA (in its capacity as the portfolio manager of HCLOF), the Debtor’s designee, HCMLP Investments, LLC (as transferee), and HarbourVest (as transferors) were parties to the proposed Transfer Agreement pursuant to which the Transfer would be effectuated. Appx. 7, Ex. A; Appx. 8.

<sup>19</sup> Plaintiffs not only failed to disclose that the Dondero Objectors took discovery, they allege the opposite (“No discovery had taken place between the parties, and plaintiff did not have any notice of the settlement terms or other factors prior to the motion’s filing (*or even during its pendency*) in order to investigate its rights.”). Appx. 1, ¶ 29 (emphasis added).

Reply”). Appx. 13. The Omnibus Reply set forth an extensive rebuttal to CLOH’s flawed argument that the Transfer could not be completed without HCLOF’s other members being offered HarbourVest’s interest in HCLOF, as allegedly required by the “Right of First Refusal” under Section 6.2. *Id.*, ¶¶ 26-39. Both HCLOF – which was independently represented – and HarbourVest agreed with the Debtor’s conclusions that the Members Agreement did not require HarbourVest to offer its interests to CLOH or any other member of HCLOF. *Id.*, ¶ 37. At the January 14, 2021, hearing, CLOH *voluntarily withdrew* its objection after reading the Debtor’s analysis of the Members Agreement:

CLO Holdco has had an opportunity to review the reply briefing, and . . . [b]ased on our analysis of Guernsey law and some of the arguments of counsel on those pleadings and our review of the appropriate documents, I obtained authority from my client, Grant Scott, as trustee for CLO Holdco, *to withdraw the CLO Holdco objection based on the interpretation of the member agreement.*

Appx. 14 at 7:20-8:6 (emphasis added). Following CLOH’s withdrawal of its objection, the Trusts also abandoned their challenge to the Transfer. *Id.* at 22:5-20.

20. The Debtor called two witnesses in support of the Settlement Motion, Mr. Seery and Mr. Pugatch. Counsel for Mr. Dondero and the Trusts cross-examined the Debtor’s witnesses but did not inquire about the value of the HCLOF interests, the Debtor’s fiduciary obligations, or the Transfer (except for a line of questioning concerning which entity would hold the HCLOF interests on behalf of the Debtor). *Id.*, at 87:18-89:21. At the conclusion of the hearing, the Court entered an order overruling the remaining objections and approving the Settlement [Docket No. 1788] (the “Settlement Order”). Appx. 15.

21. The Settlement Order *expressly* authorized the transfer of HarbourVest’s interest in HCLOF providing, in relevant part, that “[p]ursuant to the express terms of the [Members Agreement] . . . HarbourVest is authorized to transfer its interest in HCLOF . . . *without the need to obtain the consent of any party or to offer such interests first to any other investor in*



*HCLOF*.” *Id.*, ¶ 6 (emphasis added). The Bankruptcy Court specifically included this language in the Settlement Order because of concerns that Mr. Dondero and his entities would “go to a different court somehow to challenge the transfer.” Appx. 14 at 156:19-20.<sup>20</sup> The Settlement Order also clearly provided that “[t]he [Bankruptcy] Court shall retain *exclusive jurisdiction* to hear and determine all matters arising from the implementation of this Order.” *Id.*, ¶ 7 (emphasis added).

22. Only the Trusts appealed the Settlement Order [Docket Nos. 1870, 1889]. Appx. 16. Plaintiffs elected not to appeal. However, both the Trust and Plaintiffs are controlled by Mr. Dondero, and Mr. Dondero is thus both appealing the Settlement Order and seeking reconsideration of the Settlement Order in this Court.

#### **G. The DAF and CLOH Sue the Debtor and Others in This Court**

23. On April 12, 2021, after obtaining new counsel,<sup>21</sup> the DAF and CLOH filed the Complaint against the Debtor, HCFA, and HCLOF in this Court. The Complaint seeks to challenge the Transfer and Settlement approved by the Bankruptcy Court over Mr. Dondero’s and Plaintiffs’ objections and to re-open the Bankruptcy Court’s factual record. To justify this blatant attempt to re-litigate the matter, the DAF and CLOH allege they recently learned that (a) the HCLOF interests were substantially more valuable than Mr. Seery testified, and (b) the Debtor had fiduciary and

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<sup>20</sup> Appx. 14 at 156:10-25; 157:1-5 (emphasis added):

MR. MORRIS: . . . With respect to the order, I just want to make it clear that we are going to include a provision that specifically authorizes the Debtor to engage in -- to receive from HarbourVest the asset, you know, the HCLOF interest, and that that's consistent with its obligations under the agreement.

*The objection has been withdrawn, I think the evidence is what it is, and we want to make sure that nobody thinks that they're going to go to a different court somehow to challenge the transfer.* So I just want to put the Court on notice and everybody on notice that we are going to put in a specific finding as to that.

THE COURT: All right. Fair . . . Fair enough. I do specifically approve that mechanism and find it is appropriate and supported by the underlying agreements.

And just so you know, I spent some time noodling this yesterday before I knew it was going to be settled, so I’m not just casually doing that. I think it’s fine.

<sup>21</sup> Upon information and belief, Mr. Dondero effectively fired Mr. Scott and his counsel, John Kane of Kane Russell, after Mr. Scott withdrew CLOH’s objection to the HarbourVest Settlement.

other duties requiring it to provide Plaintiffs with the opportunity to acquire HarbourVest’s interest in HCLOF. *See, e.g.*, Appx. 1, ¶¶ 36, 49. Plaintiffs also assert claims for breach of fiduciary duty, breach of contract, negligence, violation of RICO, and tortious interference.

24. In the Complaint, Plaintiffs recite certain facts relating to HarbourVest’s Claims and the process by which the Debtor obtained Bankruptcy Court approval (*Id.*, ¶¶ 16-31) but disclose none of the undisputed facts set forth above. Plaintiffs also do not disclose that they – through their relationship to Mr. Dondero – had the same information concerning the value of the HarbourVest interests that Mr. Seery allegedly had. Finally, they do not even attempt to justify why they are seeking, in this Court, to re-litigate a Bankruptcy Court order.

#### **H. Counsel for the DAF and CLOH Willfully Ignore the Gatekeeper Orders**

25. Throughout the Complaint, Plaintiffs threatened to name Mr. Seery as a defendant,<sup>22</sup> and indeed, on April 19, 2021, just four days after filing the Complaint, Sbaiti & Co. (“Sbaiti”), the newly-retained counsel for the DAF and CLOH, advised the Debtor’s counsel that they “intend to move for leave today in the district court seeking permission to amend our complaint to add claims against Mr. Seery. They are the same causes of action. We believe we are entitled to amend as a matter of course.” Counsel asked whether they could “put your client down as unopposed?” Appx. 17. In response, the Debtor informed Sbaiti of the two “Gatekeeper Orders” (defined below), which prohibited this action, provided copies, and told them, among other things, that “[i]f you proceed to amend the complaint as you suggest [] without first obtaining Bankruptcy Court approval we reserve all rights to take appropriate action and seek appropriate relief from the

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<sup>22</sup> By way of example only, Plaintiffs refer to Mr. Seery as a “potential party” and suggest that he had access to and wrongfully utilized “superior non-public information” and lied under oath about the value of the asset subject to the Transfer in his testimony to the Bankruptcy Court. Appx. 1, at Introduction, ¶¶ 6, 43-44.

Bankruptcy Court.” *Id.* Later that evening, Sbaiti confirmed their intention to seek leave from this Court to sue Mr. Seery and, on April 19, 2021, filed the Seery Motion. Appx. 18.

26. Both Gatekeeper Orders are plain, unambiguous, and final. On January 9, 2020, the Bankruptcy Court, *with Mr. Dondero’s consent and agreement*, entered the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Docket No. 339] pursuant to 11 U.S.C. §§ 105 and 363 and Rule 9019 (the “January Order”). Appx. 19. Pursuant to the January Order, Mr. Dondero surrendered control of the Debtor and the Independent Board was appointed. To protect the Independent Board and its agents from frivolous litigation (primarily from Mr. Dondero and his related entities), the Debtor asked for, and the Bankruptcy Court included in the January Order (without objection), a “gatekeeper” provision stating in pertinent part:

No entity may commence or pursue a claim or cause of action of any kind against any Independent Director, any Independent Director’s agents, or any Independent Director’s advisors relating in any way to the Independent Director’s role as an independent director of Strand without the Court (i) first determining the Court (i) first determining after notice that such claim or cause of action represents a colorable claim of willful misconduct or gross negligence against Independent Director, any Independent Director’s agents, or any Independent Director’s advisors and (ii) specifically authorizing such entity to bring such claim. The Court will have sole jurisdiction to adjudicate any such claim for which approval of the Court to commence or pursue has been granted.

*Id.*, ¶ 10. Mr. Seery is protected under the January Order as a member of the Independent Board and as the Debtor’s CEO and CRO – an agent of the Independent Board. The January Order provided that the Bankruptcy Court “shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Order. . . .”). *Id.*, ¶ 13.

27. Seven months later, the Debtor sought Bankruptcy Court approval to appoint Mr. Seery as the Debtor’s CEO and CRO. After an evidentiary hearing, the Bankruptcy Court granted the motion (without objection) and entered its *Order Approving Debtor’s Motion Under*

*Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc To March 15, 2020* [Docket No. 854] pursuant to 11 U.S.C. §§ 105(a) and 363(b) (the “July Order” and with the January Order, the “Gatekeeper Orders”). Appx. 20. Like the January Order, the July Order included a “gatekeeper” provision:

No entity may commence or pursue a claim or cause of action of any kind against Mr. Seery relating in any way to his role as the chief executive officer and chief restructuring officer of the Debtor without the Bankruptcy Court (i) first determining after notice that such claim or cause of action represents a colorable claim of willful misconduct or gross negligence against Mr. Seery, and (ii) specifically authorizing such entity to bring such claim. The Bankruptcy Court shall have sole jurisdiction to adjudicate any such claim for which approval of the Court to commence or pursue has been granted.

*Id.*, ¶ 5. The Bankruptcy Court “retain[ed] jurisdiction over any and all matters arising from or related to the interpretation and/or implementation of [the July] Order.” *Id.*, ¶ 8.

28. The Gatekeeper Orders are final orders, *res judicata*, and law of the case. *See* Appx. 5, ¶ 73 (finding that the Gatekeeper Orders “constitute[] law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir. 1987)”).

29. The Gatekeeper Orders also featured heavily at the Plan confirmation hearing. CLOH initially objected to the Plan, which Mr. Dondero and his proxies, including CLOH, contested.<sup>23</sup> In the Confirmation Order, the Bankruptcy Court provided the rationale for, and purpose of, the “gatekeeper” provisions in the Gatekeeper Orders (Appx. 5, ¶¶ 12-14) and expressly found that a “gatekeeper” provision was needed in the Plan because “Mr. Dondero and his related entities will likely commence litigation . . . after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims” (Appx. 5, ¶ 78). Despite this clear finding and

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<sup>23</sup> Mr. Dondero and a number of his related entities are currently appealing the Confirmation Order.

order, Plaintiffs filed the Seery Motion to add Mr. Seery as a defendant and asked this Court to disregard the Gatekeeper Orders. Although this Court denied the Seery Motion, it stated “Plaintiffs may renew their motion after Defendants are served and have appeared” leaving open the possibility that Plaintiffs may still attempt to add Mr. Seery.<sup>24</sup> Appx. 21.

30. In response, on April 23, 2021, the Debtor filed the Contempt Motion in the Bankruptcy Court for an order to show cause as to why Plaintiffs should not be held in contempt. Appx. 24. Plaintiffs then filed a motion in the Bankruptcy Court purporting to seek reconsideration of the July Order [Docket No. 2248] (the “Motion for Reconsideration”).<sup>25</sup> Appx. 25. The Bankruptcy Court ordered Plaintiffs, among others, to appear at an in person hearing on June 8, 2021,<sup>26</sup> to show cause why they should not be held in contempt. Appx. 26.

31. Finally, on May 14, 2021, Plaintiffs filed the Bankruptcy Response in which they argue that they followed the Gatekeeper Orders by filing the Complaint in this Court rather than the Bankruptcy Court because seeking to amend the Complaint to add Mr. Seery as a defendant was not “pursuing” a claim (as used in the Gatekeeper Orders). Appx. 28 at 13.

## ARGUMENT

### **A. Plaintiffs Violated Local Rule 3.3(a) By Failing to Disclose the Bankruptcy Case**

32. When Plaintiffs filed the Complaint, thereby initiating the action, their counsel was required to complete a Civil Cover Sheet, Section VIII of which required them to disclose whether there were any “related cases.” Local Rule 3.3(a) requires that “[w]hen a plaintiff files a complaint and there is a related case . . . the complaint must be accompanied by a notice of related case.” A

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<sup>24</sup> If Mr. Seery incurs any costs defending or preparing to defend against Plaintiffs’ action, Mr. Seery will be entitled to indemnification directly from the Debtor under the Debtor’s limited partnership agreement (Appx. 22, § 4.1(h)) and indirectly through the Strand’s indemnification obligations and the Debtor’s guarantee of such obligations (Appx. 23).

<sup>25</sup> The Contempt Motion and the Motion for Reconsideration were re-docketed on April 27, 2021, without any changes.

<sup>26</sup> The hearing on the Show Cause Order will be the first in person hearing since March 2020.

“related case” is defined in pertinent part as a proceeding that “arises from a common nucleus of operative fact with the case being filed or removed, regardless whether the related case is a pending case. . . .” Local Rule 3.3(b)(3). As discussed above, although the Complaint asserts claims based on the same facts as the HarbourVest Settlement approved over Plaintiffs’ objection by the Bankruptcy Court, the Civil Cover Sheet makes no mention of the Bankruptcy Case as a “related case.” It merely describes the nature of the Complaint as one arising under RICO. Yet the Bankruptcy Case is indisputably related to this one.<sup>27</sup> Plaintiffs’ failure to disclose the existence of a related case violates the Local Rules. *See Kuzmin v. Thermaflo, Inc.*, 2:07-CV-00554-TJW, 2009 U.S. Dist. LEXIS 42810, at \*4-7 (E.D. Tex. May 20, 2009) (finding party violated court’s local rules where they failed to indicate on civil cover sheet that case was “related to” other cases).

**B. The Complaint Should Be Automatically Referred to the Bankruptcy Court**

**i. The Complaint Should Be Heard in the Bankruptcy Court.**

33. Jurisdiction of “all civil proceedings arising under title 11, or arising in or related to cases under title 11” is conferred on district courts. 11 U.S.C. §§ 1334(a), (b). District courts, in turn, may refer proceedings to the bankruptcy courts. 28 U.S.C. § 157(a) (“Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.”). On August 3, 1984, this Court entered the Order of Reference, which provides, in pertinent part: “*any or all cases under Title 11 and any or all proceedings arising under Title 11 or arising in or related to a case under Title 11 . . . be and they hereby are referred to the*

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<sup>27</sup> Under 28 U.S.C. § 1334(a), this Court has original and exclusive jurisdiction over the Bankruptcy Case. Pursuant to 28 U.S.C. § 157 and the Order of Reference, this Court has referred matters in the Bankruptcy Case to the Bankruptcy Court. It is thus clear that the Bankruptcy case is pending in this District pursuant to this Court’s jurisdiction, and as noted above the matters alleged in the Complaint related directly to litigated proceedings involving Plaintiffs and the Debtor in the Bankruptcy Case. These facts require appropriate disclosure in the Civil Cover Sheet.



*Bankruptcy Judges of this district for consideration and resolution consistent with law.*” Appx.

2 (emphasis added). The Order of Reference therefore refers the following proceedings:

- **Proceedings “arising under Title 11”:** A proceeding “arises under” Title 11 if it is a “cause of action created or determined by a statutory provision of title 11.” *Wood v. Wood (In re Wood)*, 825 F.2d 90, 96 (5th Cir. 1987).
- **Proceedings “arising in . . . a case under Title 11”:** A proceeding “arises in” Title 11 if it deals with “administrative matters that arise *only* in bankruptcy cases.” *Wood*, 825 F.2d at 96 (emphasis in original).<sup>28</sup>
- **Proceedings “related to a case under Title 11”:** A proceeding “relates to” a case under Title 11 if “the outcome of [the non-bankruptcy] proceeding could conceivably have any effect on the estate being administered in bankruptcy.” *Burch v. Freedom Mortg. Corp. (In re Burch)*, 835 Fed. Appx. 741, 748 (5th Cir. 2021) (internal citations omitted); *see also Celotex Corp. v. Edwards*, 514 U.S. 300, 308 (1995) (“Congress intended to grant comprehensive jurisdiction to the bankruptcy courts so that they might deal. . . with all matters connected with the bankruptcy estate”). A proceeding “relates to” a proceeding under Title 11 even if it arises from postpetition conduct if “it affects the estate, not just the debtor.” *Wood*, 825 F.2d at 94.

**ii. The Order of Reference is Mandatory.**

34. Under the plain language of the Order of Reference, “all proceedings under Title 11 or arising or related to a case under Title 11” are *automatically* referred to the bankruptcy courts, and the Debtor respectfully submits that the Order of Reference is mandatory. *See Uralkali Trading, S.A. v. Sylvite Southeast, LLC*, 2012 U.S. Dist. LEXIS 40455, at \*3 (M.D. Fla. Mar. 26, 2012) (finding that a substantially similar order of reference in the Middle District of Florida “mandate[d]” referral to the appropriate bankruptcy court); *Welch v. Regions Bank*, 2014 U.S. Dist. LEXIS 96175, at \*5 (M.D. Fla. July 15, 2014) (“[T]his Court has declared the enforcement of the Standing Order of Reference mandatory”). The fact that 11 U.S.C. §§ 1334 confers original jurisdiction on the district court does not change this requirement as district courts and bankruptcy

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<sup>28</sup> Proceedings arising under and arising in Title 11 are “core proceedings” under 28 U.S.C. § 157(b). *Wood*, 825 F.2d at 96 (“[T]he phrases ‘arising under’ and ‘arising in’ are helpful indicators of the meaning of core proceedings. If the proceeding involves a right created by the federal bankruptcy law, it is a core proceeding. . . . If the proceeding is one that would arise only in bankruptcy. It is also a core proceeding. . . .”).

courts are distinct. *Villegas v. Schmidt*, 788 F.3d 156, 159 (5th Cir. 2015) (“Additionally, every other circuit to address the issue has maintained the distinction between the bankruptcy court and the district court, holding that ‘a debtor must obtain leave of the bankruptcy court before initiating an action in district court when the action is against the trustee or other bankruptcy-court-appointed officer, for acts done in the actor’s official capacity’”) (citations omitted).

**iii. Any Disputes Over the Settlement or the Transfer Arise Under, Arise In, and Relate to Title 11 and are Core Proceedings.**

35. It is black letter law that the determination of whether to approve a settlement of a claim is a “core proceeding” and arises in and under Title 11. The statutory predicates for relief are 11 U.S.C. §§ 105 and 363 and under Rule 9019, which are “created by the federal bankruptcy law” and “arise only in bankruptcy.” *Wood*, 825 F.2d at 96; *see also, e.g., In re Idearc, Inc.*, 423 B.R. 138, 177 (Bankr. N.D. Tex. 2009) (finding approval of a settlement under Bankruptcy Rule 9019 was a “core proceeding” under 28 U.S.C. § 157(b)); *In re Margaux City Lights Partners, Ltd.*, 2014 Bankr. LEXIS 4841 at \*6 (Bankr. N.D. Tex. Nov. 24, 2014) (same); Settlement Order, ¶ 2 (same). The HarbourVest Settlement also involved the allowance of HarbourVest’s Claims – a black letter core proceeding under 28 U.S.C. § 157(b)(2)(B) (“Core proceedings include, but are not limited to – (B) allowance of disallowance of claims against the estate. . . .”).

36. Since the Complaint seeks to re-litigate the HarbourVest Settlement and to re-open the Bankruptcy Court’s factual record, it is seeking a ruling from this Court as to the merits of the HarbourVest Settlement and/or to litigate matters that arose from the same operative facts as the HarbourVest Settlement – in each case, a core proceeding arising in and under Title 11. If the Settlement Order or the Transfer is to be re-assessed it must be by the Bankruptcy Court under the Bankruptcy Code and Bankruptcy Rules. This Court should enforce the Order of Reference and refer the Complaint to the Bankruptcy Court. *See Burch*, 835 Fed. Appx. at 748 (“Each of Burch’s

state-court claims is premised on his interpretation of a Chapter 11 bankruptcy order, and so each arises from or is related to his Title 11 bankruptcy proceedings.”).

37. Further, the Bankruptcy Court specifically retained jurisdiction in the Settlement Order to adjudicate all disputes arising from the implementation of the Settlement Order, including the Transfer of the HCLOF interests, and therefore retained jurisdiction to hear the Complaint. *Id.* ¶7. Even if jurisdiction had not been explicitly retained, the Bankruptcy Court, like all federal courts, has jurisdiction to interpret and enforce its own orders. *Rodriguez v. EMC Mortgage Corp. (In re Rodriguez)*, 2001 U.S. App. LEXIS 30564, at \*5 (5th Cir. Mar. 15, 2001); *In re Galaz*, 841 F.3d 316, 322 (5th Cir. 2016); *Angel v. Tauch (In re Chiron Equities, LLC)*, 552 B.R. 674, 684 (Bankr. S.D. Tex. 2016). The Complaint, which seeks to challenge the Transfer and re-litigate the Settlement Order, is therefore itself a core proceeding arising in and under Title 11 and should be heard in the Bankruptcy Court.

**iv. Any Disputes Over the Gatekeeper Orders Arise Under, Arise In, and Relate to Title 11 and Are Core Proceedings.**

38. The Seery Motion was denied, and Mr. Seery has not been added as a defendant in this Case. Plaintiffs have also filed the Motion for Reconsideration in the Bankruptcy Court. However, to the extent Plaintiffs seek to add Mr. Seery as a defendant in this Case, any such proceedings must be referred to the Bankruptcy Court for the reasons forth in Section B(iii) *supra*. Like the Settlement Order, the January Order is the result of a settlement with the Committee approved under 11 U.S.C. §§ 105 and 363 and Bankruptcy Rule 9019. The “gatekeeper” provision in the January Order was also a required component of that settlement and the settlement would not have been approved without it. *See* Appx. 5, ¶ 12-14. Similarly, the July Order was the result of a motion seeking authority to appoint Mr. Seery as CEO and CRO under 11 U.S.C. §§ 105(a) and 363(b), an administrative action that only exists in Title 11 and thus “arises in” and “arises

under” Title 11. Like the January Order, the “gatekeeper” provision in the July Order was a required component of Mr. Seery’s appointment. *Id.* Any attempt to add Mr. Seery as a defendant would be re-litigating a core proceeding arising under, arising in, and related to Title 11.

**v. The Complaint Impacts Creditor Recoveries.**

39. The Debtor’s Plan provides for the orderly monetization of the Debtor’s assets and the distribution of the proceeds to creditors. Because the Plan is an asset monetization plan, distributions depend on two things: (a) the total amount of allowed claims against the estate and (b) the cash available to pay those claims. Consequently, the Complaint will have a material and immediate impact on the Debtor’s estate. *First*, any judgment secured by Plaintiffs against the Debtor will decrease the cash available to pay the Debtor’s prepetition creditors (which cash is property of the estate under 11 U.S.C. § 541). *Second*, any delay in determining the amount owed to HarbourVest or the amount owed by the Debtor to Plaintiffs will delay payments to creditors under the Plan as the Debtor will need to reserve against such claims. This impact on creditors and the Debtor’s ability to satisfy its obligations under the Plan clearly impacts the Debtor’s estate and should be adjudicated by the Bankruptcy Court. *Zale*, 62 F.3d at 753 (“Those cases in which courts have upheld ‘related to’ jurisdiction over third-party actions do so because the subject of the third party dispute is property of the estate, or because the dispute over the asset would have an effect on the estate.”); *see generally Centrix Fin. Liq. Trust v. Sutton*, 2019 U.S. Dist. LEXIS 154083 (D. Colo. Sept. 10, 2019) (finding that in a liquidating plan, the bankruptcy court has “related to” jurisdiction over all matters that impact distributions from the liquidating trust).

**vi. Mr. Seery Will Have Indemnification Claims Against the Estate.**

40. This Court denied the Seery Motion without prejudice, but if Mr. Seery is ever added as a defendant or is compelled to retain personal counsel because of the completely unfounded and false allegations in the Complaint, Mr. Seery will have the right to indemnification

from the estate. See ¶ n.24 *supra*. The cost of this indemnification will immediately decrease the amount available to creditors and will delay distributions. Again, this clearly “relates to” to the Debtor’s bankruptcy. See, e.g., *Collins v. Sidharthan (In re KSRP, Ltd.)*, 809 F.3d 263, 266-67 (5th Cir. 2015) (finding that bankruptcy court had jurisdiction because of potential indemnification claims even though bankruptcy court ultimately determined the indemnification claims were invalid); *Refinery Holdings Co., L.P. v. TRMI Holdings, Inc. (In re El Paso Refinery, L.P.)*, 302 F.3d 343, 349 (5th Cir. 2002) (finding “related to” jurisdiction when “RHC’s claim against Texaco could conceivably have an effect on the Estate in light of the chain of indemnification provisions beginning with Texaco and leading directly to the Debtor.”); *Houston Baseball Partners, LLC v. Comcast Corp. (In re Houston Reg’l Sports Network)*, 2014 Bankr. LEXIS 2274, at \*15-25 (Bankr. S.D. Tex. May 22, 2013).

**C. There is No Basis for a Mandatory Withdrawal of the Reference**

41. In the Seery Motion, Plaintiffs cite 28 U.S.C. § 157(d) for the proposition that bankruptcy courts are “prohibit[ed] . . . absent the parties consent, from presiding over cases or proceedings that require consideration of both Title 11 and other federal law regulation organizations or activities affecting interstate commerce.” Appx. 18, at 7. Plaintiffs argue that, because they pled causes of action arising under the Advisers Act and RICO, this Court will have to withdraw the reference. Plaintiffs make the same argument in the Bankruptcy Response: “Respondents expected that the motion for leave [to amend] would likely be referred to [the Bankruptcy] Court for a report and recommendation. And Respondents planned, if necessary, to move to withdraw the reference. . . .” Appx. 28 at 12.

42. Even assuming Plaintiffs’ federal law claims are not frivolous (and they are), Plaintiffs misinterpret 28 U.S.C. § 157(d)’s applicability to this case. 28 U.S.C. § 157(d) provides for mandatory withdrawal of the reference in certain instances: “The district court shall, on timely

motion of a party, so withdraw the proceeding if . . . resolution of the proceeding *requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.*” 28 U.S.C. § 157(d) (emphasis added). However, in interpreting Section 157(d), courts in this Circuit apply the majority view and require withdrawal of the reference only:

[W]hen “substantial and material consideration” of a federal statute other than the Bankruptcy Code is necessary to the resolution of a case or proceeding. Withdrawal is not mandatory in cases that require only the “straightforward application of a federal statute to a particular set of facts.” Rather, withdrawal is in order only when litigants raise “issues requiring significant interpretation of federal laws that Congress would have intended to [be] decided by a district judge rather than a bankruptcy judge.”

*Southern Pac. Transp. v. Voluntary Purchasing Groups*, 252 B.R. 373, 382 (E.D. Tex. 2000) (quoting *In re National Gypsum*, 14 B.R. 188, 192-93 (N.D. Tex. 1991)). As such, even the presence of a substantial federal question is not a basis for mandatory withdrawal; mandatory withdrawal is only proper when a bankruptcy court would have to interpret and apply federal law on a novel and unsettled question. See *Beta Operating Co., LLC v. Aera Energy, LLC (In re Memorial Prod. Partners)*, 2018 U.S. Dist. LEXIS 161159, at \*9 (S.D. Tex. Sept. 20, 2018); *UPH Holdings, Inc. v. Sprint Nextel Corp.*, 2013 U.S. Dist. LEXIS 189349, at \*4 (W.D. Tex. Dec. 10, 2013) (holding no mandatory withdrawal when, among other reasons, “the Bankruptcy Court will be tasked with ‘no more than application of federal communications law to a given set of facts.’”) (citations omitted). Finally, “mandatory withdrawal is to be applied narrowly to ensure bankruptcy cases are litigated in the bankruptcy courts and to prevent 157(d) from becoming an ‘escape hatch’ from litigating cases under the Bankruptcy Code.” See, e.g., *Manila Indus., Inc. v. Ondova Ltd. (In re Ondova Ltd.)*, 2009 U.S. Dist. LEXIS 102134, at \*6 (N.D. Tex. Oct. 1, 2009) (quoting *In re G-I Holdings, Inc.*, 295 B.R. 211, 221 (D. N.J. 2003)).



43. None of the putative federal causes of action raised by Plaintiffs require “substantial and material consideration” of a federal statute or more than the cursory application of settled federal law. In fact, most can be summarily dismissed as they either grossly misinterpret settled law, based on materially misstated facts, or assert causes of action that belong to other parties.

**D. The Complaint Is Barred by the Doctrine of *Res Judicata***

44. The doctrine of *res judicata* protects the finality of judgements by preventing litigants from re-litigating the same issues over and over again. “[R]es judicata has four elements: (1) the parties are identical or in privity; (2) the judgment. . . was rendered by a court of competent jurisdiction; (3) the prior action was concluded by a final judgment on the merits; and (4) the same claim or cause of action was involved in both actions.” *Comer v. Murphy Oil USA*, 718 F.3d 460, 467 (5th Cir. 2013). Each of those elements is satisfied here, and the Complaint is barred by *res judicata*. Plaintiffs had their opportunity to challenge these orders; they do not get a second bite at the apple or to re-litigate these issues in a different forum.

45. As set forth above, the parties are identical. Plaintiffs had the right to object to the HarbourVest Settlement and the Transfer of the HarbourVest interests, and Plaintiffs (a) actually objected to the Settlement Motion arguing that they had a “Right of First Refusal” under the Members Agreement; (b) had the right to take discovery on all issues, including the value of the HarbourVest interests; (c) could have objected based on the Advisers Act or RICO; (d) deposed HarbourVest’s 30(b)(6) witness; and (e) ***withdrew their objection once they realized that they did not have a “Right of First Refusal.”*** The Bankruptcy Court also indisputably had jurisdiction over the matter. Although the Settlement Order is being appealed by the Trusts, it is a final judgment for purposes of *res judicata*. See *Fid. Standard Life Ins. Co. v. First Nat’l Bank & Trust Co.*, 510 F. 2d 272, 273 (5th Cir. 1975) (“A case pending appeal is *res judicata* and entitled to full faith and credit unless and until reversed on appeal.”). Finally, as set forth above, the same claims or causes

of action are involved. The Complaint is a blatant collateral attack on the Settlement Order. *See Miller v. Meinhard-Commercial Corp.*, 462 F.2d 358, 360 (5th Cir. 1972) (finding that regardless of relief sought, it is a collateral attack if it must in some fashion overrule a previous judgment).

46. Similarly, the January Order was entered in January 2020 with Mr. Dondero's consent and with the knowledge of Plaintiffs.<sup>29</sup> It was never appealed and is final. The July Order was entered in July 2020 without objection and with the knowledge of Plaintiffs. It was (a) never appealed; (b) is final;<sup>30</sup> and (c) the Bankruptcy Court was a court of competent jurisdiction.<sup>31</sup> *See In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046, 1052-53 (5th Cir. 1987) (finding a court has jurisdiction for purposes of res judicata when no party contests subject matter jurisdiction in the original proceeding). Consequently, any attempt to add Mr. Seery to the Complaint and subsequent challenges to the Gatekeeper Orders would involve the same issues addressed by the Bankruptcy Court and must be dismissed on the basis of *res judicata*.

#### **E. This Court Should Consider Mr. Dondero's Litigious Nature**

47. This Court should also consider the history of this case when determining whether to enforce the reference, including Mr. Dondero's history of vexatious litigation (brought directly and indirectly) and the Bankruptcy Court's familiarity with the Bankruptcy Case and the interrelatedness of Mr. Dondero's byzantine web of related companies. Appx. 5, ¶ 77-78. In fact, the Fifth Circuit recently addressed a similar issue in *Burch v. Freedom Mortgage. Corp.* (*In re*

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<sup>29</sup> On December 4, 2019, CLOH filed a *Notice of Appearance and Request for Copies* [Docket No. 152] in the Bankruptcy Case by and through its counsel Kane Russell Coleman Logan PC. Since then, CLOH has received notice as required by the Bankruptcy Code of all pleadings filed in the Bankruptcy Case.

<sup>30</sup> The Bankruptcy Court specifically found that the Gatekeeper Orders were *res judicata* in the Confirmation Order. *See* Appx. 5, ¶ 73; ¶ 28 *supra*.

<sup>31</sup> Plaintiffs have questioned whether the Bankruptcy Court exceeded its jurisdiction to enter the July Order in the Motion for Reconsideration. Any attempt to litigate that issue in this Court may impact the Motion for Reconsideration and must be referred to the Bankruptcy Court under the Order of Reference. *See In re Margulies*, 476 B.R. 393 (Bankr. S.D.N.Y. 2012) (citing *Mich. Emp't Sec. Comm'n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1143 (6th Cir. 1991)) ("If the action between third parties will have a collateral estoppel effect on the debtor, the third party action is 'related to' the bankruptcy case for jurisdictional purposes.").

*Burch*). In *Burch*, the movant sought to avoid bankruptcy court jurisdiction over claims regarding the interpretation and enforceability of prior bankruptcy court orders. *Burch*, 385 Fed. Appx. at 747. Mr. Burch, like Mr. Dondero, had also been found to be an abusive litigant. The Fifth Circuit denied Mr. Burch’s attempts to avoid bankruptcy court jurisdiction through clever pleading, calling them “frivolous,” and “warn[ed] Burch that any further frivolous or abusive filings in this court, the district court, or the bankruptcy court will invite the imposition of sanctions, including dismissal, monetary sanctions, and/or restrictions on his ability to file pleadings in this court and any court subject to this court’s jurisdiction.” *Id.*, at 749; *see also* 28 U.S.C. § 1927 (“Any attorney or other person . . . who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorney’s fees reasonably incurred because of such conduct.”). Mr. Dondero, directly and through his proxies, is a frivolous and abusive litigant – hence the need for the “gatekeeper” provisions. This Court should not provide him a forum to further abuse the judicial process.

### CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court grant its Motion and enter an order in the form annexed to the Motion as Exhibit A, and grant any further relief as the Court deems just and proper.

*[Remainder of Page Intentionally Blank]*

Dated: May 19, 2021

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## **EXHIBIT 25**

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.

Defendants.

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Case No. 3:21-cv-00842-B

**APPENDIX IN SUPPORT OF HIGHLAND CAPITAL MANAGEMENT, L.P.'S  
MOTION FOR AN ORDER TO ENFORCE THE ORDER OF REFERENCE**



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Highland Capital Management, L.P., a defendant in the above-captioned case (the “Debtor” or “Highland”), hereby files this appendix in support of *Highland Capital Management, L.P.’s Motion for an Order to Enforce the Order of Reference* (the “Motion”).<sup>1</sup>

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Appx.	Description
1	<i>Original Complaint</i> , Case No. 21-00842-B, Docket No. 1 (N.D. Tex. Apr. 12, 2001)
2	<i>Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc</i>
3	<i>Civil Cover Sheet</i> , Case No. 21-00842-B, Docket No. 2 (N.D. Tex. Apr. 13, 2001)
4	Summary of Dondero Entity Litigation
5	<i>Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief</i> [Docket No. 1943] <sup>2</sup>
6	HarbourVest 2017 Global Fund L.P. Proof of Claim No. 143, HarbourVest 2017 Global AIF L.P., Proof of Claim No. 147, HarbourVest Dover Street IX Investment L.P., Proof of Claim No. 150, HV International VIII Secondary L.P., Proof of Claim No. 153, HarbourVest Skew Base AIF L.P., Proof of Claim No. 154, and HarbourVest Partners L.P., Proof of Claim No. 149.
7	<i>Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> [Docket No. 1625]
8	<i>Settlement Agreement and Transfer Agreement for Ordinary Shares of Highland CLO Funding, Ltd.</i> [Docket No. 1631-1]
9	<i>Objection to the Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest</i> , [Docket No. 1697]
10	<i>Objection to the Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> [Docket No. 1706]
11	<i>Objection to HarbourVest Settlement</i> [Docket No. 1707]
12	Notice of Deposition [Docket No. 1705]
13	<i>Omnibus Reply in Support of Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> [Docket No. 1731]

<sup>1</sup> All capitalized terms used but not defined herein have the meanings given to them in the Motion.

<sup>2</sup> Unless otherwise indicated, all docket reference numbers refer to the docket maintained by the Bankruptcy Court.

14	Hearing Transcript, January 14, 2021
15	<i>Order Approving Debtor’s Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith</i> [Docket No. 1788]
16	<i>Notice of Appeal</i> [Docket No. 1870]; <i>Amended Notice of Appeal and Statement of Election</i> [Docket No. 1889]
17	Correspondence, Jeffrey Pomerantz and Mazin Sbaiti
18	<i>Plaintiff’s Motion for Leave to File First Amended Complaint in the District Court, Case No. 21-00842-B, Docket No. 6 (N.D. Tex. Apr. 19, 2021)</i>
19	<i>Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> [Docket No. 339]
20	<i>Order Approving Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc To March 15, 2020</i> [Docket No. 854]
21	<i>Electronic Order, Case No. 21-00842-B, Docket No. 8 (N.D. Tex. Apr. 20, 2021)</i>
22	Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015
23	Indemnification and Guaranty Agreement, dated as of January 9, 2020, by and between Strand Advisors, Inc., Highland Capital Management, L.P., and James P. Seery, Jr.
24	<i>Debtor’s Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> [Docket No. 2247]
25	<i>Motion for Modification of Order Authorizing Retention of James P. Seery, Jr., Due to Lack of Subject Matter Jurisdiction</i> [Docket No. 2248]
26	<i>Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> [Docket No. 2255]
27	Deposition Transcript of Grant Scott, January 21, 2021
28	<i>Response of the Charitable DAF Fund, L.P., CLO Holdco, Ltd., and Sbaiti &amp; Company PLLC to Show Cause Order</i> [Docket No. 2313]

*[Remainder of Page Intentionally Blank]*

Dated: May 19, 2021.

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## **EXHIBIT 26**

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

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.

Defendants.

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Case No. 3:21-cv-00842-B

**DEBTOR'S REPLY IN SUPPORT OF MOTION TO DISMISS COMPLAINT**

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Highland Capital Management, L.P., a defendant in the above-captioned case (the “Debtor” or “Highland”), submits this reply (the “Reply”) in support of the *Debtor’s Motion to Dismiss the Original Complaint* (the “Motion”).

**I. PRELIMINARY STATEMENT**

1. In their response [Docket No. 38] (the “Response”), Plaintiffs attempt to cure the deficiencies in their Complaint by mischaracterizing the facts of the Prior Proceeding and misleading the Court as to the relevant issues. Plaintiffs contend that their Claims are not barred by *res judicata* or judicial estoppel because (i) the Settlement does not “release” the Claims, and (ii) Plaintiffs were not “successful” and the objections were not decided on the “merits.” That the Settlement does not “release” the Debtor from liability has no bearing on whether the Claims arise from the same core facts as those in the Prior Proceeding. That Plaintiffs did not succeed on their objections has no relevance to whether Plaintiffs’ Claims are inconsistent with positions taken by Plaintiffs during the Settlement hearing. Plaintiffs’ assertion that their state fiduciary claim can be predicated on the Advisers Act fails because (i) there is no duty to CLOH; (ii) a private right of action under the Advisers Act does not exist, and (iii) Plaintiffs fail to allege any state law claim. Plaintiffs’ claim for breach of the Members Agreement fails because the Agreement and Settlement Order, by their plain terms, authorize the Transfer of HCLOF assets. Plaintiffs’ new theory of their breach of contract claim that the Settlement violated the “good faith” clause of the Agreement, and constituted a “sale” to the Debtor because HCMLPI did not “pay” for the HCLOF interests is frivolous. In support of their negligence and tortious interference claims, Plaintiffs recite the elements thereof, while disregarding the Debtor’s arguments for dismissal. In support of their RICO claim, Plaintiffs restate the same conclusory allegations that are insufficient to support the heightened pleading standard under RICO. To the extent their RICO claim is premised

on securities laws, any such claim fails because RICO forecloses securities fraud as a “predicate” act.

## **II. PLAINTIFFS’ CLAIMS ARE BARRED BY RES JUDICATA**

### **A. Plaintiffs’ Argument that Settlement Does Not “Release” Claims Is Without Merit**

2. Plaintiffs argue that their Claims are not barred because the Settlement Order does not “release” Plaintiffs’ Claims. Response at 6-7. Plaintiffs’ citation to *Applewood Chair Co. v. Three Rivers Planning & Dev. Dist. (In re Applewood Chair Co.)*, 203 F.3d 914 (5th Cir. 2000) is misguided. There, the court addressed whether a plan discharged creditors’ claims against guarantors under section 524 of the Bankruptcy Code. Here, Plaintiffs do not seek to hold guarantors liable for any of the Debtor’s debt, and section 524 of the Bankruptcy Code is not at issue. The relevant question is whether all claims against the debtor Highland were fully and finally resolved, and as set forth below and in the Motion, they were.

### **B. The Settlement Is a Final Order That Resolved the Claims and Issues on the Merits**

3. Plaintiffs’ contention that the Settlement Order “overrules objections *en masse* without addressing the merits thereof” is simply false. *See* Response at 7. The Bankruptcy Court overruled the objections after Plaintiffs had the opportunity to litigate their Claims and withdrew the objection. Plaintiffs’ cite to *Applewood* is inapplicable for the reasons discussed *supra*. Plaintiffs’ citation to *Risby v. United States*, CIV.A.3:04-CV-1414-H, 2006 WL 770428 (N.D. Tex. Mar. 7, 2006) is misplaced. The court found that the government failed to establish that a claim for the return of property was barred by *res judicata* where it “has not demonstrated the finality” of the order at issue, and where the “procedural posture” of such an order was “not clear.” *Id.* at \*5. The court found that if the issue was “still pending on remand,” or had been previously held as “moot,” the judgment “would not be final.” *Id.* at \*6. Here, unlike in *Risby*, the Settlement Order is clear and unambiguous. It is a final order entered after an evidentiary hearing on the

proposed Settlement in which CLOH objected and fully participated. The order is not pending before a court on remand, nor were the issues at hand ever deemed “moot.”

4. Plaintiffs contend that because CLOH’s withdrawal of its objection was not “with prejudice,” it is not barred by *res judicata*. Response at 8. Plaintiffs misrepresent the facts. Counsel for CLOH voluntarily withdrew its objection on the record after extensive litigation on the issue. Plaintiffs’ citations to *Chalmers v. Gavin*, No. 3:01–CV–528–H, 2002 WL 511512, at \* 3 (N.D. Tex. Apr. 2, 2002) and *Reynolds v. Tombone*, No. 3:96-CV-3330-BC, 1999 WL 439088, at \*2 (N.D. Tex. June 24, 1999) are inapplicable. In *Chalmers*, the court held that *res judicata* did not bar plaintiff from litigating his state law claims brought in a prior civil rights action where the court “explicitly dismissed” the claim “without prejudice to [p]laintiff refiling his complaint after the Texas courts had been given an opportunity to address the state law issues raised in the complaint.” 2002 WL 511512, at \* 3. In *Reynolds*, the court held that *res judicata* did not bar an indigent plaintiff’s motion for return of property where it was “not adjudicated on the merits” and was dismissed without prejudice pending compliance with the *in forma pauperis* provisions pertaining to prisoner litigation.” *Id.* at \*12 and n.5.

5. Plaintiffs’ contention that the bankruptcy court generally has “discretion” to “overrule an objection,” Response at 8, is irrelevant, as are the cases Plaintiffs rely on in support thereof. They involve direct appeals of 9019 settlements, where the reviewing court simply notes the standard by which the bankruptcy court generally reviews such settlements. *See Official Comm. of Unsecured Creditors v. Moeller (In re Age Ref., Inc.)*, 801 F.3d 530, 541 (5th Cir. 2015) (reviewing direct appeal of a 9019 settlement for abuse of discretion, noting that “[i]n evaluating a Rule 9019 settlement, a bankruptcy court *need not* ‘conduct a mini-trial to determine the probable outcome of any claims waived in the settlement.’ [] The bankruptcy court must ‘apprise [itself] of



the relevant facts and law so that [it] can make an informed and intelligent decision.”<sup>1</sup> None of these cases are relevant to Plaintiffs’ argument that their Claims are not barred by *res judicata*.

6. When evaluating the Settlement, the Bankruptcy Court determined that the Settlement was fair and reasonable and in the best interest of the estate. The Bankruptcy Court was presented with evidence regarding the merits of the Claims asserted by HarbourVest and the value of the assets being conveyed to the estate. At no point did Plaintiffs raise the contention that if the Debtor performed pursuant to the Settlement, they would sue the Debtor for its conduct, giving rise to the possibility of a large administrative claim. To the extent there were any valid claims (there are not), the Bankruptcy Court may have made a different determination with respect to the Settlement. Plaintiffs sat on their hands until months after the Settlement Order was entered and now attempt to retroactively gut the value of the Settlement. This gamesmanship is improper and is foreclosed by *res judicata*.

### **C. The Bankruptcy Court Possessed Jurisdiction to Hear the Claims**

7. Plaintiffs contend without any legal support that the Bankruptcy Court lacked the power under 28 U.S.C. § 157(d) to hear the Claims. *See* Response at 9-10. Plaintiffs request that if the Court finds that, in accordance with the *Debtor’s Motion for an Order to Enforce the Order of Reference* [Docket No. 22], “mandatory withdrawal applies, then it cannot find that the bankruptcy court’s [] final judgment was rendered on Plaintiffs’ causes of action and had jurisdiction to do so.” *Id.* Plaintiffs conflate two separate issues pending before this Court: (i) whether the Complaint should be mandatorily withdrawn from this Court pursuant to 28 U.S.C. § 157(a), and (ii) whether the Claims in the Complaint are barred by *res judicata*. The concept of

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<sup>1</sup> *See also In re Alfonso*, No. 16-51448-RBK, 2019 WL 4254329 (Bankr. W.D. Tex. Sept. 6, 2019) (same); *Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortg. Corp.)*, 68 F.3d 914, 917 (5th Cir. 1995) (same).

mandatory withdrawal has nothing to do with this Motion, and Plaintiffs' arguments with respect to same should be summarily rejected by the Court.<sup>2</sup>

**D. The Claims Arise from the Same Common Nucleus of Operative Facts as Those Raised in the Prior Proceeding**

8. Plaintiffs argue that this lawsuit and the matters adjudicated in the motion to approve the Settlement do not arise from the same nucleus of operative facts. Plaintiffs assert that a "different legal duty is implicated" in the current action than in the Prior Proceeding, Response at 10, but offer no support for this contention other than one case, *Travelers Ins. Co. v. St. Jude Hosp. of Kenner, Louisiana, Inc.*, 37 F.3d 193, 196 (5th Cir. 1994), which is inapposite. *Travelers* dealt with Louisiana's "entity theory of partnership," and whether a creditor's claim against a partner for his share of a judgment against the partnership arises out of the same nucleus of operative facts as the partnership's debt. *Id.* at 196. In holding that that *res judicata* did not bar an action to collect against the partner, the court reasoned that the claim "does not rest on an identical obligation" where the creditor was not pursuing a new theory of recovery or seeking to "relitigate" any issues raised in the prior proceeding, but instead, "sought merely to collect a pre-existing judgment in its favor." *Id.* Here, by contrast, Plaintiffs do not seek to bring claims against the Debtor to collect on a pre-existing judgment. Plaintiffs seek to relitigate the same Claims and issues raised in the Prior Proceeding, including whether Plaintiffs held a valid right of first refusal, a specious argument they asserted and then withdrew after they were shown it was baseless.

9. Plaintiffs also assert a due process argument that is nothing short of frivolous. They contend that they "only" had "22 days" to bring the Claims and that this is a violation of their "due

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<sup>2</sup> The Court should first decide the *Debtor's Motion for an Order to Enforce the Order of Reference* because if it grants that motion, this Motion will properly be before the Bankruptcy Court. See *Payne v. Doe*, 2017 U.S. Dist. LEXIS 49875, at \*4-5 (E.D. Va. Mar. 31, 2017) ("[M]andatory abstention argument is addressed first [before *res judicata*] because in the event mandatory abstention is warranted, it is unnecessary to reach or decide the remaining issues.")

process rights.” Response at 11-12. The Debtor does not argue that Plaintiffs should have brought the Claims *prior* to the Settlement hearing. Rather, the Debtor argues in its Motion that the Claims arise from the same common nucleus of operative facts as those claims and issues raised during the Prior Proceeding and are thus barred by *res judicata*. Motion ¶¶ 15-22. The valuation issues asserted in the Complaint were central to the Prior Proceeding through objections, motion practice, testimony, and extensive discovery. *See id.* ¶ 20; *see also* Complaint ¶ 34 (“HCM rationalized the settlement value by allocating \$22.5 million of the net value of the \$45 million in unsecured claims as consideration to purchase HarbourVest’s interests in HCLOF”); *id.* ¶ 43 (“Seery testified that the fair market value of the HarbourVest HCLOF interests was \$22.5 million”). Plaintiffs’ citation to *Benson and Ford, Inc. v. Wanda Petroleum Co.*, 833 F.2d 1172 (5th Cir. 1987), in support of their due process argument provides no support. There, the court found that a party was not prohibited from bringing an action where, in the prior suit, they did not “control” the litigation and their interests were not “adequately” represented. *Id.* at 1174-75. Unlike in *Benson*, Plaintiffs fully participated in, and had control over their role in, protecting their interests throughout the Settlement hearing where the very same matters were adjudicated.<sup>3</sup>

10. Plaintiffs’ position that the “first time” they learned about the valuation of the HLCOF interests was during the Settlement hearing is demonstrably false. The Settlement Agreement disclosed (i) the valuation and (ii) the method of valuation. *See* Appx. 2, 3. Plaintiffs were aware of the core facts underlying their current Claims throughout the Prior Proceeding and had a full and fair opportunity to investigate and litigate them. This is precisely the type of situation contemplated by the doctrine of *res judicata*. *In re Paige*, 610 F.3d 865, 874 (5th Cir.

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<sup>3</sup> For these same reasons, Plaintiffs’ statute of limitations argument is of no moment, *see* Response at 11-12, and should be summarily disregarded by the Court.

2010); *Hall v. Hodgkins*, 305 Fed.Appx. 224, 229 (5th Cir. 2008).<sup>4</sup> The Claims and issues arise from the same nucleus of operative facts as those raised in the Prior Proceeding and are foreclosed by *res judicata*.

### **III PLAINTIFFS' CLAIMS ARE BARRED BY JUDICIAL ESTOPPEL**

11. Plaintiffs maintain that the Debtor “has not met its burden” of showing that the Claims are barred by judicial estoppel because (i) there has been “no decision on the merits” on Plaintiffs’ Claims, and (ii) “withdrawing an objection and then raising the argument later” does not constitute an “inconsistent position” and Plaintiffs were “clearly not successful” on the objection. Response at 13. Plaintiffs’ arguments are without merit.

12. Both prongs of judicial estoppel are satisfied here. *In re Coastal Plains Inc.*, 179 F.3d 197, 206 (5th Cir. 1999). Plaintiffs’ Claims are clearly inconsistent with the positions Plaintiffs assumed during the Prior Proceeding. During the Settlement hearing, Plaintiff CLOH expressly stated on the record that it withdrew its objection premised on the alleged “Right of First Refusal” under the Members Agreement after it “had an opportunity to review the reply briefing” and based on its “analysis” of applicable law. Appx. 9 at 7:20-8:6. Plaintiffs’ current Claim for breach of contract is premised on this same “Right of First Refusal” under the Members Agreement. Complaint ¶¶ 92-102. Plaintiffs offer no legal basis in support of the notion that because they “withdrew an objection” during a hearing, this somehow does not constitute an

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<sup>4</sup> Plaintiffs argue that the Court should “refuse” to take judicial notice of the Record. Response at 11, n. 2. In deciding whether claims are barred by *res judicata* on a 12(b)(6) motion, it is proper for the Court to consider the Record submitted by the Debtor. *Anderson v. Wells Fargo Bank, N.A.*, 953 F.3d 311, 314 (5th Cir. 2020); *Meyers v. Textron, Inc.*, 540 F. App’x 408, 409 (5th Cir. 2013). Plaintiffs’ case cites are misplaced. *Reneker v. Offill*, Civil Action No. 3:08-CV-1394-D, 2010 U.S. Dist. LEXIS 38526, at \*12 (N.D. Tex. Apr. 19, 2010) did not involve a 12(b)(6) motion premised on *res judicata*. The court held that where *facts are in dispute*, “courts must limit their inquiry to the facts stated in the complaint.” Here, for purposes of the Motion, the Debtor does not dispute the facts alleged in the Complaint. The Debtor relies on public documents to show the four elements of *res judicata*. Plaintiffs’ cites to *Lovelace v. Software Spectrum*, 78 F.3d 1015, 1018 (5th Cir. 1996) and *Taylor v. Charter Med. Corp.*, 162 F.3d 827, 829-30 (5th Cir. 1998) are distinguishable for these same reasons.

“inconsistent” position if this same issue is raised in a subsequent proceeding. This is the type of “self-contradiction” and forum shopping that the doctrine of judicial estoppel is designed to prevent. *In re Save Our Springs (S.O.S.) All., Inc.*, 393 B.R. 452, 458 (Bankr. W.D. Tex. 2008) (judicial estoppel barred party from bringing position where party “expressly” assumed contradictory position “on the record” in a prior hearing); *Hall v. GE Plastic Pac. PTE Ltd.*, 327 F.3d 391, 398 (5th Cir. 2003).

13. The Bankruptcy Court accepted Plaintiffs’ withdrawal of its objection premised on the Members Agreement. This was a central issue in the Prior Proceeding. Appx. 6 ¶¶ 3, 6, 9-22; Appx. 7 at 140:7-25. The Bankruptcy Court expressly stated that such a withdrawal “eliminates one of the major arguments” related to the proposed Settlement. Appx. 9 at 8:1-10; *Save Our Springs*, 393 B.R. at 460 (bankruptcy court accepted party’s position in prior proceeding where “a significant amount of the Court’s time and attention” at the hearing “were devoted to resolving the issues” raised by that party). The Order explicitly authorized the transfer of the HCLOF assets because of concerns that Mr. Dondero and his entities would “go to a different court somehow to challenge the transfer.” Appx. 9 at 156:19-20. Plaintiffs’ argument that it was not “successful” on its objection has no bearing on judicial estoppel. *In re Coastal Plains, Inc.*, 179 F.3d 197, 206 (5th Cir. 1999); *Hall*, 327 F.3d at 398. The Claims are barred by the doctrine of judicial estoppel.

#### **IV. PLAINTIFFS FAIL TO STATE CLAIMS FOR RELIEF**

##### **A. Plaintiffs Fail to State a Claim for Breach of Fiduciary Duty**

14. There is no duty owed to CLOH. Rule 206 of the Advisers Act creates a fiduciary duty to an investment adviser’s “client” (*i.e.* a counterparty to the investment management agreement) but not an underlying investor in the “client.” *Goldstein v. SEC*, 451 F.3d 873,

881(D.C. Cir. 2006).<sup>5</sup> The Debtor has never had a management agreement with CLOH; CLOH is a shell entity through which DAF invested in HCLOF. The Debtor does not “owe[] a fiduciary duty to [CLOH] as an investor in HCLOF [i.e., the “client”].” Complaint ¶ 62.

15. Plaintiffs acknowledge that there is no private right of action under the Advisers Act for breach of duty. Response at 16. As a fallback, they attempt to manufacture a breach of fiduciary duty claim under Texas state law premised on an imagined duty imported from the Advisers Act, but they offer no credible legal support thereof. Plaintiffs broadly contend that “[u]nder Texas law, an investment advisor / advisee client relationship is considered a formal fiduciary relationship because it is a principal and agent relationship.” Response at 16. This does not address Plaintiffs’ argument that such a state-law claim can be premised specifically on the Advisers Act. Plaintiffs’ citation to *Accord Lampkin v. UBS Painewebber, Inc. (In re Enron Corp. Sec., Derivative & “ERISA” Litig.)*, 238 F. Supp. 3d 799, 851 (S.D. Tex. 2017) lends no support for their argument either. That case dealt with federal claims—not state law claims—and fiduciary duties owed by investment *brokers*—not investment advisors. *See id.*

16. Plaintiffs’ cite to *Laird v. Integrated Res.*, 897 F.2d 826, 834 (5th Cir. 1990), Response at 16, is also misplaced. *Laird* involves federal claims under RICO, the Advisers Act, and the SEC, but not state-law fiduciary claims. Plaintiffs mischaracterize *Douglass v. Beakley*, 900 F. Supp. 2d 736, 751-52, n.16 (N.D. Tex. 2012) in support of their argument that “although the Advisers Act does not itself create a cause of action, it is still actionable through state law fiduciary claims.” Response at 16. In *Douglass*, the court held that a plaintiff stated a state law fiduciary claim because they adequately pled such a claim under state law, not because it was

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<sup>5</sup> See also *SEC v. Northshore Asset Mgmt.*, 2008 U.S. Dist. LEXIS 36160, at \*18-20 (S.D.N.Y. May 5, 2008); *SEC v. Trubulse*, 526 F.Supp.2d 1008, 1016 (N.D. Cal. 2007).



premised on the Advisers Act. *See id.* at 751-52. The court noted that *Transamerica* set forth the “federal fiduciary standards” under the Advisers Act, *see id.* at 751-52, n.16, but did not state that the state law fiduciary claim was “predicated on the Advisers Act.” Response at 16-17. Here, unlike in *Douglass*, Plaintiffs fail to adequately plead a state-law claim for breach of fiduciary duty.<sup>6</sup>

17. Plaintiffs fail to plausibly allege breach of fiduciary duty premised on either state or securities laws. Plaintiffs’ conclusory allegations regarding its state law claim fail to sufficiently allege the: (1) nature of the fiduciary relationship; (2) the breach; and (3) any actual injury to Plaintiffs as a result of any purported breach. Complaint ¶¶ 5-91. *In re ATP Oil & Gas Corp.*, 711 Fed. App’x 216, 221 (5th Cir. 2017). Plaintiffs’ allegation of damages in the form of lost opportunity, *see* Complaint ¶ 88, is equally deficient. *See Little v. KPMG LLP*, No. SA-07-CA-621-FB, 2008 WL 576226, at \*5 (W.D. Tex. Jan. 22, 2008) (rejecting damages claim consisting of “lost profits they would have received” had they know about the conduct at issue, noting that allegations are “speculative and conjectural.”) To the extent Plaintiffs’ fiduciary claim is premised on fraud, Plaintiffs necessarily fail to satisfy the heightened pleading standard required under Rule 9(b). The allegations fail to state with particularity the specific omissions by the Debtor, nor do they give rise to any “strong inference of scienter” or deceptive motive on the part of the Debtor. Plaintiffs’ vague allegations regarding the Debtor’s “diversion of corporate

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<sup>6</sup> Plaintiffs’ remaining cites are unhelpful. *See Strougo ex rel. Brazil Fund v. Scudder, Stevens & Clark, Inc.*, 964 F.Supp. 783, 799 (S.D.N.Y. 1997), (plaintiff sufficiently plead a state-law fiduciary claim under Maryland law; not because claim arose from Advisers Act); *Goldenson v. Steffens*, No. 2:10-cv-00440-JAW, 2014 U.S. Dist. LEXIS 201258, at \*137 (D. Me. Mar. 7, 2014) (“at a *conceptual* level, it is *possible* that the IAA could create a fiduciary duty); *State ex rel. Udall v. Colonial Penn Ins. Co.*, 112 N.M. 12 (applying NM law where there was contract between parties); *Belmont v. MB Inv. Partners, Inc.*, 708 F.3d 470, 502-06 (3d Cir. 2013) (applying PA law: “[w]e need not resolve whether the Investors’ fiduciary claims can properly be brought as a matter of state law”). Contrary to Plaintiffs’ contention, Rule 206(4)-8 of the Advisers Act “does not create under the Advisers Act a fiduciary duty to investors or prospective investors in a pooled investment vehicle not otherwise imposed by law” or “a private right of action.” Inv. Adv. Act Rel. No. 2628 (Aug. 3, 2007).

opportunity” is insufficient. *See Southland Sec. Corp. v. INSpire Ins. Sols., Inc.*, 365 F.3d 353, 368 (5th Cir. 2004) (plaintiff must plead “more than allegations of motive and opportunity to withstand dismissal” for claim of securities fraud).

**B. Plaintiffs Fail to State a Claim for Breach of Members Agreement**

18. Plaintiffs note that Sections 6.1 and 6.2 of the Agreement “allow sales by members of their interests in HCLOF to ‘affiliates’ of Members, but not members themselves, without certain conditions precedent.” Response at 23. Plaintiffs fail to address the fact that the Settlement Order explicitly authorized the transfer of the interests to “a wholly-owned and controlled subsidiary of the Debtor” “without the need to obtain the consent of any party or to first offer such interests to any other investor in HCLOF.” Appx. 10 ¶ 6. Moreover, the “conditions precedent, *i.e.*, that “other members have to be afforded the right to purchase their pro-rata portion,” do not apply in these circumstances. Pursuant to Section 6.2 of the Members Agreement, the “Right of First Refusal” does not apply where the Transfer of the HCLOF interests is to “affiliates of an initial Member” from Members other than CLOH. Appx. 13. This is exactly what is contemplated by the Settlement and authorized by the Bankruptcy Court. HarbourVest transferred its interest in HCLOF to the HCMLPI, an “Affiliate” of the Debtor, an “initial Member.” In contending that (i) such an argument is “outside the scope of a 12(b)(6)” motion and (ii) the Transfer was made in “bad faith,” Response at 23-24, Plaintiffs willfully ignore the express ruling of the Bankruptcy Court. The Debtor’s argument that the Members Agreement was not violated is well within the scope of the Debtor’s 12(b)(6) Motion. The terms of the Settlement Order and Members Agreement are appropriately considered by the Court in assessing the Motion because: (i) they were referenced in the Complaint, (ii) they are central to Plaintiffs’ Claims, and (iii) the Debtor attached them to the Motion. *See In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007); *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498–99 (5th Cir. 2000).

19. Plaintiffs argue for the first time in their Response that HCMLPI “was not a party to” the Settlement and “did not pay for those interests,” and that the Settlement “constitutes a sale to *Highland*,” in violation of the “good faith” clause of the Members Agreement. Response at 24. This is nonsense. There is no basis to argue that the Debtor violated the “good faith” clause by complying with a federal court order. Pursuant to the Settlement Order, HarbourVest transferred its interests in HCLOF to HCMLPI, consistent with the Members Agreement. Plaintiffs fail to offer any legal or factual basis in support of their newly asserted theory of their breach of contract claim. Based on the clear and unambiguous terms of the Members Agreement and Settlement Order, Plaintiffs’ claim for breach of the Members Agreement fails as a matter of law.

20. Plaintiffs fail to sufficiently allege damages. Damages in the form of lost profits must be plead with “reasonable certainty.” *Baumstimler v. Rankin*, 677 F.2d 1061, 1072 (5th Cir. 1982).<sup>7</sup> Plaintiffs’ cite to *Basic Capital Mgmt. v. Dynex Commer., Inc.*, 402 S.W.3d 257, 268 (Tex. App.—Dallas 2013) is distinguishable. There, the court held that the evidence supported an award for lost opportunity resulting from a lender’s breach of a commitment to provide investors with \$160 million in financing to purchase commercial properties, where, as a result of such breach, the trusts could no longer purchase those properties because they did not have financing. *Id.* at 266-77. Here, unlike in *Basic Capital*, there was no contract between Plaintiffs and the Debtor pursuant to which the Plaintiffs were to purchase the HCLOF interests. Plaintiffs’ contention that “had plaintiff been allowed to do so, it would have obtained the interests” in HCLOF, Complaint. ¶ 100, is precisely the type of conclusory allegation of lost profits rejected by courts. *I Love Omni, LLC v. Omnitrition Int’l, Inc.*, No. 3:16-CV-2410-G, 2017 WL 3086035, at

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<sup>7</sup> See also *Little*, 2008 WL 576226, at \*5.

\*4 (N.D. Tex. July 20, 2017) (allegations of “lost business” and “lost income” fail “to allege the damages [] suffered with any specific factual support.”)

**C. Plaintiffs Fail to State a Claim for Tortious Interference with Contract**

21. Plaintiffs maintain that since the Debtor’s “entire premise” for dismissing Plaintiffs’ tortious interference claim is “predicated on the non-existence of an enforceable contract,” this claim survives. Response at 25. The Debtor does not premise its dismissal of this claim on the non-existence or enforceability of the Members Agreement. The Debtor argues that the claim for tortious interference with contract should be dismissed precisely because Plaintiffs: (i) “fail to sufficiently allege how the Debtor intentionally interfered with the Members Agreement,” (ii) “fail to allege proximate causation,” or (iii) “actual damages,” and (iv) have admitted in court that the Settlement did not violate the Members Agreement. Motion at 25-25.

**D. Plaintiffs Fail to Plead a Claim for Negligence**

22. Plaintiffs recite the elements of a negligence claim, stating that the Debtor has waived its argument for dismissal thereof because “it has not shown which elements have not been met.” Response at 25. In its Motion, the Debtor argues that Plaintiffs’ negligence claim is deficient regarding “duty” and “proximate cause.” Motion at 24. Plaintiffs’ allegations of a long chain of attenuated events surrounding the Settlement which they contend “proximately” caused their harm are too speculative to show that the Debtor’s actions were the “cause in fact” or “substantial factor” in bringing about any injury. *Reneker*, 2009 WL 3365616, at \*6 (dismissing negligence claim where allegations of “proximate cause” “depend on an attenuated chain of causation which speculates,” as to uncertain events).

**E. Plaintiffs Fail to State a Claim under RICO**

23. Plaintiffs contend they adequately pled a pattern of racketeering activity through (i) “wire and mail fraud,” and (ii) violations of the securities laws, including the Advisers Act.

Response at 28-31. Plaintiffs list a series of allegations, only a few of which even mention the terms “wires” and “mails.” *Id.* at 28-29. These are the same conclusory allegations that fail to meet the heightened pleading standard under RICO. Motion at ¶ 29. Plaintiffs fail to plead with particularity: (i) the specific acts of communication by mail or interstate wire undertaken by the Debtor in furtherance of the alleged fraudulent scheme, or (ii) details about the contents of any of these alleged communications, when they were made, to whom, or where they were directed. Complaint ¶¶ 113-33; *Merrill Lynch, Pierce, Fenner, & Smith, Inc. v. Young*, No. 91 Civ. 2923, 1994 WL 88129, at \*11 (S.D.N.Y. Mar. 14, 1994). Plaintiffs fail to plead a “pattern” of any alleged racketeering activity because there is no specific “threat of repetition” or threat or long-term criminal conduct. Plaintiffs complain of a single transaction—the transfer of interests as part of the Settlement. There is nothing to support the allegation that the Debtor “operates as part of a long-term association that exists for criminal purposes.” *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 239 (1989). The allegations concern short-term conduct from September 2020 to January 2021 leading up to one discreet activity—the Settlement. Plaintiffs’ allegations premised on wire or mail fraud fail to meet the heightened pleading standard in support of a RICO claim. *In re Burzynski*, 989 F.2d 733, 742 (5th Cir. 1993).<sup>8</sup> Moreover, RICO prohibits securities fraud as a predicate act. 18 U.S.C.A. § 1964(c). Plaintiffs allege as predicate acts the violation of securities laws and the Advisers Act in connection with a sale of a security, Complaint ¶¶ 131-33, and the RICO claim should also be dismissed on this basis. *Affco Invs. 2001, L.L.C. v. Proskauer Rose, L.L.P.*, 625 F.3d 185, 191 (5th Cir. 2010).

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<sup>8</sup> *R.A.G.S. Couture, Inc. v. Hyatt*, 774 F.2d 1350 (5th Cir. 1985) is misguided; a plaintiff sufficiently alleged “two acts of mail fraud” in the complaint. *Id.* at 1354. Here, the allegations do not allege *any* predicate acts under RICO. *R.A.G.S.* was also overturned by *H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 235 (1989); *see also Smith v. Cooper/T. Smith Corp.*, 886 F.2d 755, 756 (5th Cir. 1989).

24. Plaintiffs fail to rebut the argument that they fail to allege an “association in fact.” They argue that: (i) HCLOF is a vehicle “run by HCFA and Highland;” (ii) the association was “ongoing” since 2017; and (iii) they “functioned as a continuing unit given their hierarchical” structure. Response at 25. The allegations fail to show that Defendants existed as a continuing unit separate from the alleged RICO violations or identify the roles of each of the entities and how each participated in the alleged enterprise. Plaintiffs’ cite to *Crowe v. Henry*, 43 F.3d 198 (5th Cir. 1995) is inapposite. There, the plaintiff plead an “association-in-fact” enterprise where the allegations show that the venture existed “*separate and apart* from the pattern of racketeering.” *Id.* at 205. Here, Plaintiffs allege the opposite—that the “purpose of the association-in-fact” was the perpetuation of the alleged racketeering activity. Complaint ¶¶ 115-17. Plaintiffs also fail to plead causation or damages. Allegations that Plaintiffs “would have paid cash” for the HCLOF interests are premised on a series of attenuated events that are too speculative to support a RICO claim. *In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico, on Apr. 20, 2010*, 802 F. Supp. 2d 725, 729 (E.D. La. 2011).<sup>9</sup>

### CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court (i) grant its Motion and enter an order in the form annexed to the Motion as Exhibit A, and (ii) grant any further relief as the Court deems just and proper.

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<sup>9</sup> See also *In re Taxable Mun. Bond Sec. Litig.*, 51 F.3d 518, 523 (5th Cir.1995); *Steele v. Hospital Corp. of Am.*, 36 F.3d 69, 70 (9th Cir.1994).



Dated: July 13, 2021

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## **EXHIBIT 27**

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

CHARITABLE DAF FUND, L.P., AND CLO  
HOLDCO LTD.

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,  
HIGHLAND HCF ADVISOR, LTD., AND  
HIGHLAND CLO FUNDING, LTD.

Defendants.

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Case No. 3:21-cv-00842-B

**APPENDIX IN SUPPORT OF DEBTOR’S REPLY IN SUPPORT OF THE DEBTORS’  
MOTION TO ENFORCE THE ORDER OF REFERENCE**

Highland Capital Management, L.P., a defendant in the above-captioned case (the “Debtor” or “Highland”), hereby files this *Appendix in Support of Debtor’s Reply in Support of the Debtors’ Motion to Enforce the Order of Reference* (the “Reply”).<sup>1</sup>

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Appx.	Description
1	<i>Defendant Highland Capital Management, L.P.’s Memorandum of Law in Support of Motion for an Order to Enforce the Order of Reference</i> , Case No. 3:21-cv-00842-B, D.I. 23 (N.D. Tex. May 19, 2021)
2	Hearing Transcript, June 8, 2021
3	<i>Debtor’s Second Amended Witness and Exhibit List with Respect to Evidentiary Hearing to Be Held on June 8, 2021</i> , [Docket No. 2423] <sup>2</sup>
4	<i>Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief</i> [Docket No. 1943]
5	Summary of Dondero Entity Litigation
6	Hearing Transcript, June 25, 2021
7	<i>Second Amended and Restated Investment Advisory Agreement</i> , effective from January 1, 2017
8	<i>Commission Interpretation Regarding Standard of Conduct for Investment Advisers</i> , Release No. IA-5248; File No. S7-07-18, Effective July 12, 2019
9	<i>In re Acis Capital Management, L.P., et al</i> , Case No. 18-30264-sgj11, D.I. 497 (Bankr. N.D. Tex. Aug. 13, 2018)
10	<i>Plaintiffs’ Response to Defendant Highland Capital Management, L.P.’s Motion for an Order to Enforce the Order of Reference</i> , Case No. 3:21-cv-00842-B, D.I. 36 (N.D. Tex. June 29, 2021)
11	<i>Original Complaint</i> , Case No. 3:21-cv-00842-B, D.I. 1 (N.D. Tex. Apr. 12, 2021)
12	<i>Prohibition of Fraud by Advisers to Certain Pooled Investment Vehicles</i> , Release No. 2628 (Aug. 3, 2007)

*[Remainder of Page Intentionally Blank]*

<sup>1</sup> All capitalized terms used but not defined herein have the meanings given to them in the Reply.

<sup>2</sup> Unless otherwise indicated, all docket reference numbers refer to the docket maintained by the Bankruptcy Court.

Dated: July 13, 2021.

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## **EXHIBIT 28**



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CHARITABLE DAF FUND, L.P., and §  
CLO HOLDCO, LTD., §

Plaintiffs, §

v. §

CIVIL ACTION NO. 3:21-CV-0842-B

HIGHLAND CAPITAL §  
MANAGEMENT, L.P., HIGHLAND §  
HCF ADVISOR, LTD., and §  
HIGHLAND CLO FUNDING, LTD., §

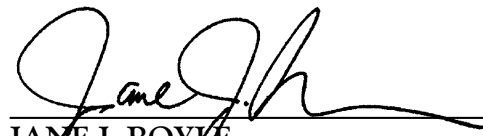
Defendants. §

ORDER OF REFERENCE

Pursuant to 28 U.S.C. § 157 and this District’s Miscellaneous Order No. 33, this case is hereby **REFERRED** to Judge Stacey G. C. Jernigan of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, to be adjudicated as a matter related to the consolidated Chapter 11 Bankruptcy of Highland Capital Management, L.P., Chapter 11 Case No. 19-34054. The Clerk of this Court and the Clerk of the Bankruptcy Court to which this case is hereby referred are directed to take such actions as are necessary and appropriate to cause this matter to be docketed as an Adversary Proceeding associated with the consolidated Chapter 11 Bankruptcy of Highland Capital Management, L.P., Case No. 19-34054.

SO ORDERED.

SIGNED: September 20, 2021.

  
\_\_\_\_\_  
JAMES J. BOYLE  
UNITED STATES DISTRICT JUDGE

## **EXHIBIT 29**



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**PLAINTIFFS' RESPONSE TO DEFENDANT HIGHLAND CAPITAL  
MANAGEMENT, L.P.'S MOTION FOR AN ORDER TO ENFORCE  
THE ORDER OF REFERENCE AND CROSS MOTION**

**I.**

**PRELIMINARY STATEMENT**

Plaintiffs The Charitable DAF Fund, L.P. and CLO Holdco Ltd. oppose Defendant Highland Capital Management, L.P.'s Motion for an Order to Enforce the Order of Reference.

This action primarily involves fiduciary duties imposed upon Registered Investment Advisers by the Investment Advisers Act of 1940 ("Advisers Act") and corresponding state law claims for breach of those duties. It also involves causes of action under the civil RICO statute, for which breaches of Advisers Act fiduciary duties serve as the predicate act. As a result, presiding over this action will require extensive consideration of federal laws regulating interstate commerce, which renders withdrawal of the reference to bankruptcy court mandatory under 28 U.S.C. § 157(d) ("The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.").

No authority requires this Court to refer this action to the bankruptcy court, only to have it return on a motion for withdrawal of the reference. The opposite is true. *In re Harrah's Entm't*, No. 95-3925, 1996 U.S. Dist. LEXIS 18097, at \*11 (E.D. La. 1996) (Clement, J.) ("Although 'related to' bankruptcy jurisdiction exists over the non-debtor plaintiffs' non-bankruptcy federal securities claims against non-debtor defendants, placing that bankruptcy jurisdiction in the bankruptcy court is inappropriate because plaintiffs would be entitled to a mandatory withdrawal

of the reference. Rather than *waste judicial resources* on a meaningless referral to bankruptcy court, the Court will retain jurisdiction over this suit.” (emphasis added)). Defendant’s arguments to the contrary are unsupported by law.

Defendant’s attempts to smear Plaintiffs with 12 pages of irrelevant facts and a 926-page appendix provide no additional support for the Motion. This action involves matters well outside the experience of bankruptcy courts and requires adjudication in an Article III court.

Because the reasons for denying Defendant’s Motion are also reasons that this Court should withdraw the reference under 28 U.S.C. § 157(d), and because deciding the same issue twice would be inefficient and unnecessary, Plaintiffs cross-move for withdrawal of the reference.

## II.

### BACKGROUND

Defendant’s factual assertions include considerable bluster and vitriol, unsupported by the lengthy materials in its appendix. Importantly, the opening sentence under the heading “Factual Background” is unsupported and false. Memorandum of Law [Doc. 23] ¶ 7. Plaintiffs are not controlled or directed by James Dondero; Plaintiffs are both controlled and directed by Mark Patrick. APP\_16-17, 22; *see also* APP\_10-14; *see generally* APP\_1-22. And Patrick’s testimony to this extent went unchallenged in a hearing before the bankruptcy court earlier this month. *Id.*

Of equal importance is Defendant’s assertion that all aspects of the Harbourvest settlement, including the valuation of the assets involved, were fully disclosed. Memorandum of Law [Doc. 23] ¶ 12. This statement is unsupported by the appendix cite accompanying it, which at most constitutes a self-serving denial. And it is a hotly contested issue between the parties. The impetus to this action, in fact, was Plaintiffs having learned that the value of the assets transferred in the Harbourvest settlement was *not* as represented. Original Complaint (“Complaint” [Doc. 1]), ¶¶ 36-

48. Plaintiffs disagree with much of the remainder of what Defendant presents as “fact” in its Memorandum of Law. But Plaintiffs respectfully submit that none of it is relevant to resolution of the present Motion. And so, for brevity’s sake, Plaintiffs have not elected to engage in a blow-by-blow effort to litigate those issues.

Instead, Plaintiffs’ brief will focus on the nature of their causes of action as that pertains to which court—district or bankruptcy—should preside over them.

### III.

#### ARGUMENT & AUTHORITY

Plaintiffs respectfully submit that Defendant’s Motion should be denied and Plaintiffs’ cross-motion granted for the reasons provided below:

##### **A. The Motion Should Be Denied Because Withdrawal of the Reference Is Mandatory**

Because the Complaint relies extensively on and largely is predicated on the Investment Advisers Act of 1940, withdrawal of the reference to the bankruptcy court is mandatory here under 28 U.S.C. § 157(d). That statute requires withdrawal of the reference when a proceeding “requires consideration” of non-bankruptcy federal laws regulating interstate commerce:

The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

28 U.S.C. § 157(d); *cf. TMT Procurement Corp. v. Vantage Drilling Co. (In re TMT Procurement Corp.)*, 764 F.3d 512, 523 & n.40 (5th Cir. 2014) (noting bankruptcy court’s “more limited jurisdiction” as a result of its “limited power” under 28 U.S.C. § 157); *LightSquared Inc. v. Deere & Co.*, 2014 U.S. Dist. LEXIS 14752 (S.D.N.Y. 2014) (quoting *Investor Prot. Corp. v. Bernard*

*L. Madoff Inv. Sec. LLC*, 454 B.R. 307, 312 (S.D.N.Y. 2011), for the proposition that, “[i]n determining whether withdrawal is mandatory, the Court ‘need not evaluate the merits of the parties’ claims; rather, it is sufficient for the Court to determine that the proceeding will involve consideration of federal non-bankruptcy law”); *In re Cont’l Airlines Corp.*, 50 B.R. 342, 360 (S.D. Tex. 1985), *aff’d*, 790 F.2d 5th Cir. 1986) (“While that second clause [of § 157(d)] might not apply when some ‘other law’ *only tangentially affects the proceeding*, it surely does apply when federal labor legislation *will likely be material* to the proceeding’s resolution.”) (emphasis added).

Plainly here, the claims in the Complaint at least involve federal laws “regulating organizations or activities affecting interstate commerce.” The Advisers Act and the RICO statute are such laws, and at least the first and fourth counts of the Complaint sound under them. *See, e.g.*, Complaint ¶¶ 57 & n.5, 66, 69, 74 & n.6, 89 (explicitly invoking various provisions of the Advisers Act and accompanying regulations), 114, 117, 131, 132 (invoking the RICO statute). Defendant’s entire argument against withdrawal of the reference thus turns on whether these laws “must be considered.”

It is remarkable that Defendant suggests these statutes need not be considered. The briefing already puts at issue significant, hotly contested issues regarding the interplay of bankruptcy law and the Advisers Act, including

1. Whether Defendant owed fiduciary duties under the Advisers Act that are unwaivable;
2. To whom such duties are owed and whether they were violated;
3. Whether such Advisers Act fiduciary duties can be terminated by a blanket release in a bankruptcy settlement;
4. Whether *res judicata* applies to bar claims for breach of Advisers Act duties that had not yet accrued at the time of the action alleged to have barred them;



5. Whether a contractual jury waiver is enforceable as to claims for breach of unwaivable Advisers Act fiduciary duties;
6. Whether such waivers can be enforced as to non-parties to the waiver;
7. Whether breach of Advisers Act fiduciary duties can serve as a predicate for civil RICO liability under the RICO statute, among other significant legal issues.

Presiding over this action most certainly will require consideration of all these issues.

Before joining the Fifth Circuit, Judge Clement addressed a motion similar to Defendant's during her time in the Eastern District of Louisiana. There, in *In re Harrah's Entm't*, 1996 U.S. Dist. LEXIS 18097, at \*7-8 (E.D. La. 1996), she denied a motion to refer a federal securities action to bankruptcy court, despite finding that the bankruptcy court had related-to jurisdiction. Judge Clement wrote,

Although "related to" bankruptcy jurisdiction exists over the non-debtor plaintiffs' non-bankruptcy federal securities claims against non-debtor defendants, placing that bankruptcy jurisdiction in the bankruptcy court is inappropriate because plaintiffs would be entitled to a mandatory withdrawal of the reference. Rather than waste judicial resources on a meaningless referral to bankruptcy court, the Court will retain jurisdiction over this suit.

*Id.* at \*11.

Judge Clement rejected the argument Defendant parrots here that the case would "only involve the simple application of established federal securities laws." *Id.* at \*7. Instead, she relied on alleged "violations of several federal securities laws" and the plaintiff's attempt "to hold defendants directly liable and secondarily liable based on a 'controlling person' theory for certain acts and omissions." *Id.* Without any need to analyze how "established" the applicable law might be, Judge Clement concluded, [t]his federal securities litigation involves more than simple application of federal securities laws and will be complicated enough to warrant mandatory withdrawal under § 157(d)." *Id.* (citing *Rannd Res. v. Von Harten (In re Rannd Res.)*, 175 B.R.

393, 396 (D. Nev. 1994), for the proposition that withdrawal of the reference is mandatory where resolution requires more than simple application of federal securities laws, even though that court’s determination was based solely on a review of the complaint’s alleged violations of § 12(2) of the Securities Act of 1933, § 10 of the Securities Exchange Act of 1934, and Rule 10b-5).

This authority applies here. In the Complaint, Plaintiffs allege violations of federal securities law (the Advisers Act), as well as the RICO statute. Deciding even the pending motion to dismiss will require far more than simple application of these laws. Nothing more is necessary to satisfy § 157(d). *Cf. In re IQ Telecomms., Inc.*, 70 B.R. 742, 745 (N.D. Ill. 1987) (“Nevertheless, Central’s second amended complaint easily meets [the § 157(d)] standard. Count 2 of the complaint consists of 76 pages and alleges that 29 individuals and entities violated RICO by engaging in a pattern of mail fraud, 18 U.S.C. § 1341, wire fraud, 18 U.S.C. § 1343, and 139 specific instances of bankruptcy fraud, 18 U.S.C. § 152.”).

Although it is unnecessary here to demonstrate that Plaintiffs’ Advisers Act allegations will require application of *underdeveloped* law, that is certainly the case. As the Third Circuit pointed out in 2013, there is considerable “confusion” in the case law stemming from the fact that federal law (the Advisers Act) provides “the duty and the standard to which investment advisers are to be held,” but “the cause of action is presented as springing from state law.” *Belmont v. MB Inv. Partners, Inc.*, 708 F.3d 470, 502 (3d Cir. 2013). The *Belmont* court further suggests the “confusion [that this situation] engenders may explain why there has been *little development in either state or federal law* on the applicable standards.” *Id.* (emphasis added). “Half a century later,” the *Belmont* court tells us, “courts still look primarily to *Capital Gains Research [Inc., 375 U.S. 180, 192 (1963)]* for a description of an investment adviser’s fiduciary duties.” *Id.* at 503;

*see also* Plaintiffs' Response to Motion to Dismiss (addressing Defendant's erroneous argument that the Advisers Act creates no private right of action).

This observation is bolstered by the necessity of relying extensively on SEC regulations and rulings in the Complaint. *See* Complaint ¶ 57 & n.5 (invoking Investment Advisers Act Release Nos. 3060 (July 28, 2010), and 2106 (Jan. 31, 2003), 66 (17 C.F.R. 275.206(4)-7), 69 (27 C.F.R. part 275 and Rule 10b5-1), 74 & n.6 (Advisers Act Release No. 4197 (Sept. 17, 2015)).

None of the cases Defendant cites even remotely suggests that this type of complicated litigation involving underdeveloped securities laws does not require "consideration" of federal laws. In its lead case, *Beta Operating Co., LLC v. Aera Energy, LLC (In re Mem'l Prod. Partners, L.P.)*, No. H-18-411, 2018 U.S. Dist. LEXIS 161159 (S.D. Tex. 2018), the court only held that a state-law contract claim did not require substantial reliance on federal law merely because it involved a trust created under federal law (the OCSLA). *Id.* at \*16-17. Moreover, the court's determination appears to have relied primarily, if not solely, on the fact that the bankruptcy court had already submitted a memorandum opinion on the defendant's summary judgment motion, disposing of the case without the need to rely on non-bankruptcy federal law. *Id.* at \*14-15, 17.

Next, Defendant cites *UPH Holdings, Inc. v. Sprint Nextel Corp.*, No. A-13-CA-748-SS, 2013 U.S. Dist. LEXIS 189349 (W.D. Tex. 2013), which is, at most, only slightly on point. There, the court declined to withdraw the reference with regard to a turnover action under the Bankruptcy Code, with little analysis other than having repeated the parties' arguments. Thus, it is difficult to draw any significance from the decision. But the court seems to rely on the fact that "the primary dispute center[ed] around the existence of a 'regulatory black hole,' a span of time during which the rules concerning how to set [a telecom] intercarrier compensation rate were left undetermined." *Id.* at \*6. And for that reason, the court seemed to believe there was little non-bankruptcy federal

law to consider. *Id.* at 7. Here, in contrast, the causes of action do not arise under the Bankruptcy Code, and there is an extensive regulatory scheme that, plainly, must be considered.

The other cases Defendant cites add little to the analysis, except that *S. Pac. Transp. Co. v. Voluntary Purchasing Gps*, 252 B.R. 373, 382 (E.D. Tex. 2000), holds against Defendant’s position, having determined that even the court’s “limited” role in approving a CERCLA settlement “necessarily involves the substantial and material consideration of CERCLA and not merely its straightforward application to the facts of this case.” *Id.* at 384. The court’s reason for this conclusion: its decision “will require the court to examine the unique facts of the case in light of those CERCLA provisions which create the causes of action at issue.” *Id.* Of course, the same examination will be necessary here.

Notably, in *S. Pac. Transp.*, the court also stated, “[i]t is well settled that CERCLA is a statute ‘‘rooted in the commerce clause’ and is precisely ‘the type of law . . . Congress had in mind when it enacted the statutory withdrawal provision [in § 157(d)].’’” *Id.* at 382 (quoting *In re Nat’l Gypsum Co.*, 134 B.R. 188, 191 (N.D. Tex. 1991), (alterations in original)). The court could just as easily have been talking about the Advisers Act. *See* 15 U.S.C. § 80b-1 (“Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 30 of the Public Utility Holding Company Act of 1935, and facts otherwise disclosed and ascertained, it is hereby found that investment advisers are of national concern, in that, among other things—(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and means and instrumentalities of interstate commerce; (2) their advice, counsel, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on national securities exchanges and in interstate

over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System; and (3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, national securities exchanges, and other securities markets, the national banking system and the national economy.”).

In sum, the Complaint alleges violations of non-bankruptcy federal law. In presiding over the case—indeed, in addressing the currently pending Motion to Dismiss—this Court will have to substantially and materially consider those laws and their interplay with bankruptcy law. Under § 157(d), this requires withdrawal of the reference, and Defendant’s motion should be denied.

#### **B. Automatic Referral Is Unnecessary and Would Be Inefficient**

As noted previously, Judge Clement’s ruling in *In re Harrah’s Entm’t*, 1996 U.S. Dist. LEXIS 18097 (E.D. La. 1996), establishes that reference to the bankruptcy court—only to have the reference withdrawn—is unnecessary:

Although “related to” bankruptcy jurisdiction exists over the non-debtor plaintiffs’ non-bankruptcy federal securities claims against non-debtor defendants, placing that bankruptcy jurisdiction in the bankruptcy court is inappropriate because plaintiffs would be entitled to a mandatory withdrawal of the reference. *Rather than waste judicial resources on a meaningless referral to bankruptcy court, the Court will retain jurisdiction over this suit.*

*Id.* at \*11 (emphasis added).

Defendant nonetheless argues this Court must do precisely that. Plaintiffs submit this is both wrong and tenuous, because at this stage of the bankruptcy proceedings—post confirmation—it is unclear that the bankruptcy court has jurisdiction at all.

**1. The causes of action asserted by the Plaintiffs do not “arise under,” or “arise in” Title 11 and are not “core” proceedings.**

In the Complaint, Plaintiffs do not seek relief that would undo or reverse any settlement approved by the bankruptcy court. Neither do they attempt an end run around the provisions of any approval, Defendant’s protestations notwithstanding. A proper jurisdictional analysis demonstrates Plaintiffs’ causes of action asserted here are not core proceedings within the bankruptcy court’s jurisdiction, for the reasons addressed below.

First of all, “the ‘core proceeding’ analysis is properly applied not to the case as a whole, but as to each cause of action within a case.” *Legal Xtranet, Inc. v. AT&T Mgmt. Servs., L.P. (In re Legal Xtranet, Inc.)*, 453 B.R. 699, 708–09 (Bankr. W.D. Tex. 2011); *Davis v. Life Inv’rs Ins. Co. of Am.*, 282 B.R. 186, 193 n. 4 (S.D. Miss.2002); *see also In re Exide Techs.*, 544 F.3d 196, 206 (3d Cir. 2008) (“A single cause of action may include both core and non-core claims. The mere fact that a non-core claim is filed with a core claim will not mean the second claim becomes ‘core.’”).

Second, the Fifth Circuit has explained that “§ 157 equates core proceedings with the categories of ‘arising under’ and ‘arising in’ proceedings; therefore, a proceeding is core under section 157 if it invokes a substantive right provided by title 11[, it ‘arises under’ the Bankruptcy Code,] or if it is a proceeding that, by its nature, could arise only in the context of a bankruptcy case[, it ‘arises in’ a bankruptcy case].” *United States Brass Corp. v. Travelers Ins. Grp., Inc. (In re United States Brass Corp.)*, 301 F.3d 296, 304 (5th Cir. 2002); *TXMS Real Estate Invs., Inc. v. Senior Care Ctrs., LLC (In re Senior Care Centers, LLC)*, 622 B.R. 680, 692–93 (Bankr. N.D. Tex. 2020); *Stern v. Marshall*, 564 U.S. 462, 476 (2011).



Third, none of the Plaintiffs’ five causes of action—breach of fiduciary duty under the Advisers Act, breach of contract related to the HCLOF Company Agreement, negligence, RICO, and tortious interference—arise under title 11. That is, none of the substantive rights of recovery are created by federal bankruptcy law. And plainly so. Because “[a]rising under’ jurisdiction [only] involve[s] cause[s] of action created or determined by a statutory provision of title 11,” this is indisputably the case. *Wood v. Wood (In re Wood)*, 825 F.2d 90, 97 (5th Cir.1987) (noting that a proceeding does not “arise under” Title 11 if it does not invoke a substantive right, created by federal bankruptcy law, that could not exist outside of bankruptcy).

Fourth and finally, for similar reasons, none of Plaintiffs’ causes of action “arise in” a bankruptcy case. “Claims that ‘arise in’ a bankruptcy case are claims that by their nature, *not their particular factual circumstance*, could *only* arise in the context of a bankruptcy case.” *Legal Xtranet, Inc.*, 453 B.R. at 708–09 (emphasis added) (citing *Stoe v. Flaherty*, 436 F.3d 209, 216 (3d Cir. 2006)). Defendants contend that, because the factual circumstances giving rise to the causes of action included the HarbourVest Settlement, which was approved by the bankruptcy court, this somehow transforms these causes of action into core claims. *See* Memorandum of Law ¶ 36. But it is the nature of the causes of action that determines whether they are core, not their “particular factual circumstance.”

To illustrate the point, in *Gupta v. Quincy Med. Ctr.*, 858 F.3d 657, 660 (1st Cir. 2017), the bankruptcy court issued a sale order which approved an asset purchase agreement whereby the purchaser became obligated to make certain payments to employees. The purchaser failed to make these payments so the employees sued the purchaser in bankruptcy court, and the bankruptcy rendered a judgment in favor of the employees. On appeal, the district court concluded that the bankruptcy court lacked subject matter jurisdiction over the claims—claims plainly related to and

existing only because of the approved sale order that gave rise to them. The First Circuit affirmed, explaining as follows:

[T]he fact that a matter would not have arisen had there not been a bankruptcy case does not ipso facto mean that the proceeding qualifies as an ‘arising in’ proceeding. Instead, the fundamental question is whether the proceeding by its nature, *not its particular factual circumstance*, could arise only in the context of a bankruptcy case. In other words, it is not enough that Appellants’ claims arose in the context of a bankruptcy case or even that those claims exist only because Debtors (Appellants’ former employer) declared bankruptcy; rather, “arising in” jurisdiction exists only if Appellants’ claims are the type of claims that can only exist in a bankruptcy case.

*Id.* at 664–65 (emphasis added).

Like the claims in *Gupta*, the Plaintiffs’ causes of action here arose in the context of a transaction approved in a bankruptcy case. But obviously, the causes of action are not “the type of claims that can only exist in a bankruptcy case.” And that ends the analysis. Because Plaintiffs’ causes of action do arise under the Bankruptcy Code, and because they are not claims that could only arise in the context of bankruptcy, this action is not a core proceeding.

## **2. The Bankruptcy Court has limited post-confirmation “related to” jurisdiction.**

Plaintiffs do not contest that this action is related to the bankruptcy case in some fashion. That is why they amended the Civil Cover Sheet to note the bankruptcy matter. But “related to” jurisdiction is a term of art with differing requirements depending on the status of the bankruptcy case. In its current, post-confirmation status, Plaintiffs submit that the bankruptcy court lacks even “related to” jurisdiction over this action.

“Related to” jurisdiction is meant to avoid piecemeal adjudication and promote judicial economy by aiding in the efficient and expeditious resolution of all matters connected to the debtor’s estate. *See Feld v. Zale Corp. (In re Zale Corp.)*, 62 F.3d 746, 752 (5th Cir.1995). Importantly, proceedings merely “related to” a case under title 11 are considered “non-core”

proceedings. *Stern*, 564 U.S. at 477; Collier on Bankruptcy ¶ 3.02[2], p. 3–26, n.5 (16th ed. 2010) (“The terms ‘non-core’ and ‘related’ are synonymous.”). The jurisdictional standard for related to jurisdiction varies depending on whether the proceeding at issue was commenced pre or post confirmation. *See Beitel v. OCA, Inc. (In re OCA, Inc.)*, 551 F.3d 359, 367 at n.10 (5th Cir. 2008). And “after confirmation of a reorganization plan, a stricter post-confirmation standard applies.” *See Bank of La. v. Craig’s Stores of Tex., Inc. (In re Craig’s Stores of Tex., Inc.)*, 266 F.3d 388, 390–91 (5th Cir.2001) (explaining this distinction).

Essentially, “after a debtor’s reorganization plan has been confirmed, the debtor’s estate, and thus bankruptcy jurisdiction, ceases to exist, other than for matters pertaining to the implementation or execution of the plan.” *Id.* 266 F.3d at 390; *Faulkner v. Eagle View Capital Mgmt. (In re The Heritage Org., L.L.C.)*, 454 B.R. 353, 358 (Bankr. N.D. Tex. 2011).

Here, on February 22, 2021, the Bankruptcy Court entered the *Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (II) Granting Related Relief* [Bankruptcy Court Dkt. No. 1943]. The Complaint was filed on April 12, 2021. Thus, the proceeding was commenced post confirmation.

Defendant does not argue that this action involves “matters pertaining to the implementation or execution of the plan,” as required under *Craig’s Stores*. It does not even cite to that authority. Certainly Plaintiffs can think of no way that their action affects plan implementation or execution. Thus, it seems, Defendant’s argument for bankruptcy court jurisdiction fails entirely.

While Defendant does argue that the bankruptcy court has “related to” jurisdiction as a result of a judgment potentially reducing available cash to pay creditors under the Confirmed Plan, Memorandum of Law ¶ 39, this is precisely the argument that the Fifth Circuit rejected in *Craig’s*

*Stores*. See *Coho Oil & Gas, Inc. v. Finley Res., Inc. (In re Coho Energy, Inc.)*, 309 B.R. 217, 220 (Bankr. N.D. Tex. 2004) (recognizing the rejection of this argument). As the Fifth Circuit explained: “while Craig’s insists that the status of its contract with the Bank will affect its distribution to creditors under the plan, the same could be said of any other post-confirmation contractual relations in which Craig’s is engaged.” 266 F.3d at 391. And that type of effect does not meet the threshold for post-confirmation related-to jurisdiction.

Defendant also contends that there is post-confirmation “related to” jurisdiction because the lawsuit will delay payments to creditors under the Confirmed Plan. *Id.* But this is just a re-packaged reduction-in-assets argument. The same would be true of any post-confirmation lawsuit against Defendant and does not meet the “more exacting theory of post-confirmation bankruptcy jurisdiction” required by *Craig’s Stores*.

Defendant may argue that the bankruptcy court’s confirmation order has not yet gone effective due to having been appealed. But even if this distinction matters, at minimum, there ought to be a sliding scale toward narrower application of “related to” jurisdiction once the bankruptcy court has issued a final confirmation order. See *Montana v. Goldin (In re Pegasus Gold Corp.)*, 394 F.3d 1189, 1194 (9th Cir. 2005) (stating “post-confirmation bankruptcy court jurisdiction is necessarily more limited than pre-confirmation jurisdiction, and ... the *Pacor* formulation [used to analyze related-to jurisdiction] may be somewhat overbroad in the post-confirmation context”); *Faulkner v. Kornman*, No. 10-301, 2015 Bankr. LEXIS 700 (Bankr. S.D. Tex. 2015) (stating “[t]he general rule is that post-confirmation subject matter jurisdiction is limited”); *Triad Guar. Ins. v. Am. Home Mortg. Inv. Corp (In re Am. Home Mortg. Holding)*, 477 B.R. 517, 529-30 (Bankr. D. Del. 2012) (stating “[a]fter confirmation... the test for ‘related to ’jurisdiction becomes more

stringent if the plaintiff *files* its action after the confirmation date”) (emphasis in original); cf. *rabbd*

*v. Rochford*, 947 F.2d 829, 832 n.1 (7th Cir. 1991) (noting that “after a bankruptcy is over, it may well be more appropriate to bring suit in district court”).

Finally, the retention of jurisdiction in the confirmed plan does nothing to alter the forgoing analysis. *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009). A bankruptcy court may not “retain” jurisdiction it does not have. *Celotex Corp. v. Edwards*, 514 U.S. 300, 307 (1995). “[N]either the parties nor the bankruptcy court can create § 1334 jurisdiction by simply inserting a retention of jurisdiction provision in a plan of reorganization if jurisdiction otherwise is lacking.” *Valley Historic Ltd. P’ship. v. Bank of N.Y.*, 486 F.3d 831, 837 (4th Cir. 2007); see also *Zerand–Bernal Group, Inc. v. Cox*, 23 F.3d 159, 164 (7th Cir. 1994) (“[O]rders approving [a] bankruptcy sale [or] . . . plan of reorganization . . . [cannot] confer jurisdiction. A court cannot write its own jurisdictional ticket.”).

### **C. The Res Judicata Argument Is Not Relevant to the Relief Sought in This Motion**

Defendant’s *res-judicata* argument does not belong in this Motion. It has no bearing on the issue presented here. This is because, to begin with, *res judicata* is always addressed by the second court in the second action. See, e.g., *Memphis-Shelby Cty. Airport Auth. v. Braniff Airways, Inc. (In re Braniff Airways, Inc.)*, 783 F.2d 1283 (5th Cir. 1986); *Davis v. Dall. Area Rapid Transit*, 383 F.3d 309 (5th Cir. 2004); *Travelers Ins. Co. v. St. Jude Hosp.*, 37 F.3d 193 (5th Cir. 1994); *Applewood Chair Co. v. Three Rivers Planning & Dev. Dist. (In re Applewood Chair Co.)*, 203 F.3d 914 (5th Cir. 2000); *Risby v. United States*, No. 3:04-CV-1414-H, 2006 U.S. Dist. LEXIS 8798 (N.D. Tex. 2006); *Chalmers v. Gavin*, 2002 U.S. Dist. LEXIS 5636, 2002 WL 511512 (N.D. Tex. Apr. 2, 2002); *Reynolds v. Tombone*, Civil No. 3:96-CV-3330-BC, 1999 U.S. Dist. LEXIS

9995 (N.D. Tex. June 24, 1999). Moreover, *res judicata* is not a basis for referring a matter to the bankruptcy court, and Defendant offers no authority for the notion that it is.

Instead of arguing that its *res judicata* affirmative defense should result in referral to the bankruptcy court, Defendant argues that “the Complaint . . . must be dismissed on the basis of *res judicata*. Memorandum of Law at 24; *see also id.* at 23 (subheading: “The Complaint Is Barred by the Doctrine of Res Judicata”). But dismissal is the relief sought in Defendant’s pending Motion to Dismiss, which raises the same *res judicata* arguments asserted here. Plaintiffs therefore will address *res judicata* in their concurrently filed response to the Motion to Dismiss.

#### **D. The Local Rule 3.3 Argument Is Unavailing**

Defendant argues that Plaintiffs failed to disclose the related bankruptcy case by omitting it on the Civil Cover Sheet accompanying the Complaint, although Defendant does not request that the Court take any action as a result of the omission.

Plaintiffs submit that the omission was inadvertent, harmless, and has been corrected. The omission was inadvertent in that Plaintiffs intended to identify the Highland bankruptcy on the Civil Cover Sheet but inadvertently failed to do so and have since submitted an amended Civil Cover Sheet correcting the error. [Doc. 33]. The omission was harmless because the Complaint discloses both the bankruptcy and its relationship to the present action, a disclosure that was supplemented by Plaintiffs’ Motion for Leave to Amend, which provides additional detail regarding the related bankruptcy case and attaches two orders issued in that case. Complaint ¶¶ 15-36; Motion for Leave and Exhibits [Docs. 6, 6-1, 6-2].

Defendant refers the Court to *Kuzmin v. Thermaflo.*, No. 2:07-cv-00554-TJW, 2009 U.S. Dist. LEXIS 42810, at \*4-7 (E.D. Tex. May 20, 2009), for the proposition that failing to disclose a related case is a violation of the Local Rules. In *Kuzmin*, however, the plaintiff was faulted for



numerous failings, including (1) the failure to submit a Civil Cover Sheet at all, (2) the failure, upon receiving notice of the deficiency, to provide sufficient information for the clerk to identify the related action, and (3) filing a third action without any information indicating it was related to the previous two. *Id.* at \*5. The court continued, finding that plaintiff's counsel in that case had also committed violations of the mandate for professionalism in the Texas Lawyer's Creed by failing to communicate about the filings with known counsel for the opposition. *Id.* at \*6-12.

Plaintiffs respectfully submit that the *Kuzmin* case is inapposite. Plaintiffs here did not fail to submit a Civil Cover Sheet. They corrected the omission after it was brought to their attention, and their original filing did disclose, in the text of the Complaint, the information that was inadvertently omitted from the Civil Cover Sheet. Further, Plaintiffs here communicated promptly with counsel for the Defendant regarding the action and the related bankruptcy case by asking the Defendant's counsel in the related action if they would accept service of the Complaint and whether they objected to Plaintiffs' Motion for Leave to Amend.

These circumstances, Plaintiffs submit, do not rise to the level of a violation of Local Rule 3.3 or, alternatively, they constitute a harmless, corrected error at most. Plaintiffs ask the Court to treat them as no worse than Defendant's failure to include a certificate of conference with this Motion (Local Rule 7(h)), or its failure to confer with Plaintiffs' counsel before filing it (Local Rule 7(a)), or its failure to paginate its appendix consecutively (Local Rule 7(i)).

Finally, Plaintiffs submit that the omission complained of does not justify or even relate to the relief sought in this Motion.

### **E. The Litigious-Nature Argument Is Likewise Unavailing**

Defendant’s claims regarding James Dondero’s litigiousness are likewise unconnected to the relief they are requesting here. Dondero is not a party to this case. Neither does he control either Plaintiff. APP\_16-17.

For this argument, Defendant relies solely on *Burch v. Freedom Mortg. Corp. (In re Burch)*, 835 F. App’x 741 (5th Cir. 2021), and 28 U.S.C. § 1927 (“Any attorney or other person . . . who so multiples the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct.”). Neither authority addresses whether jurisdiction appropriately lies here or in the bankruptcy court. It appears that they are cited here merely to raise the specter of potential sanctions.

Plaintiffs respectfully submit that their claims here have merit and are not frivolous. And Defendant’s contrary position can and should be addressed in connection with Defendant’s pending motion under Rule 12(b)(6) rather than in connection with this Motion.

### **F. Plaintiffs’ Cross-Motion Should Be Granted**

For the same reasons Defendant’s Motion should be denied, Plaintiffs’ cross-motion should be granted. Presiding over this action will require consideration of non-bankruptcy federal laws regulating interstate commerce, as well as their interplay with the Bankruptcy Code. Thus, the mandatory-withdrawal-of-the-reference provision of 28 U.S.C. § 157(d) applies.

Moreover, the bankruptcy court’s jurisdiction is limited, both by § 157(d) and by plan confirmation. *See TMT Procurement Corp. v. Vantage Drilling Co. (In re TMT Procurement Corp.)*, 764 F.3d 512, 523 & n.40 (5th Cir. 2014) (noting bankruptcy court’s “more limited jurisdiction” as a result of its “limited power” under 28 U.S.C. § 157); *Bank of La. v. Craig’s*

*Stores of Tex., Inc. (In re Craig's Stores of Tex., Inc.)*, 266 F.3d 388, 390–91 (5th Cir.2001) (explaining that, “after confirmation of a reorganization plan, a stricter post-confirmation standard applies,” and “after a debtor’s reorganization plan has been confirmed, the debtor’s estate, and thus bankruptcy jurisdiction, ceases to exist, other than for matters pertaining to the implementation or execution of the plan.”).

No authority requires this Court to refer this action to the bankruptcy court, only to have it return on a motion for withdrawal of the reference. The opposite is true. *In re Harrah's Entm't*, No. 95-3925, 1996 U.S. Dist. LEXIS 18097, at \*11 (E.D. La. 1996) (Clement, J.). Thus, this Court should deny Defendant’s Motion, withdraw the reference under § 157(d), and retain jurisdiction over this action.

## VI.

### CONCLUSION

For all of these reasons, Plaintiffs respectfully submit Defendant’s Motion should be denied.

Dated: June 29, 2021

Respectfully submitted,

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*/s Jonathan Bridges*

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## **EXHIBIT 30**

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

**CHARITABLE DAF FUND, L.P.  
 and CLO HOLDCO, LTD.,  
*directly and derivatively,***

*Plaintiffs,*

v.

**HIGHLAND CAPITAL MANAGEMENT,  
 L.P., HIGHLAND HCF ADVISOR, LTD.,  
 and HIGHLAND CLO FUNDING, LTD.,  
*nominally,***

*Defendants.*

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**CAUSE NO. 3:21-cv-00842-B**

**APPENDIX IN SUPPORT OF PLAINTIFFS' RESPONSE TO HIGHLAND CAPITAL  
 MANAGEMENT, L.P.'S MOTION FOR AN ORDER TO ENFORCE THE ORDER OF  
 REFERENCE AND CROSS-MOTION**

App'x No.	Description	Bates Range
1	Declaration of Jonathan Bridges	APP_002
2	Excerpts from June 8, 2021 Transcript of Hearing of Show Cause, Motion to Modify Order Authorizing Retention of James Seery, and Motion for Order Further Extending the Period Within Which Debtor May Remove Actions	APP_003 - 019
3	DAF/CLO Holdco Structure Chart introduced as Exhibit 25 in Hearing of Show Cause, Motion to Modify Order Authorizing Retention of James Seery, and Motion for Order Further Extending the Period Within Which Debtor May Remove Actions	APP_020 - 022



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

**CHARITABLE DAF FUND, L.P.  
and CLO HOLDCO, LTD.,  
*directly and derivatively,***

***Plaintiffs,***

**v.**

**CAUSE NO. 3:21-cv-00842-B**

**HIGHLAND CAPITAL MANAGEMENT,  
L.P., HIGHLAND HCF ADVISOR, LTD.,  
and HIGHLAND CLO FUNDING, LTD.,  
*nominally,***

***Defendants.***

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**DECLARATION OF JONATHAN BRIDGES**

1. My name is Jonathan Bridges. I am over twenty-one years old and fully competent in all respects to make this Declaration.

2. I am a partner at Sbaiti & Company PLLC, and I represent Plaintiffs Charitable DAF Fund, L.P. and CLO Holdco, Ltd. in this matter. The facts stated in this Declaration are based on my personal knowledge.

3. Attached as Exhibit 1 is a true and correct copy of excerpts from a June 8, 2021 transcript of a hearing before the bankruptcy court at which Mr. Mark Patrick provided sworn testimony regarding Plaintiffs, his right to control them, and Mr. James Dondero’s lack of any such right.

4. Attached as Exhibit 2 is a true and correct copy of Exhibit 25 from that same hearing, which is proved up by Mr. Patrick’s testimony in Exhibit 1, and which constitutes an organizational chart depicting the corporate relationships described in the testimony.

Executed on June 29, 2021.

*/s/ Jonathan Bridges* \_\_\_\_\_  
Jonathan Bridges

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021  
APPELLANT RECORD  
VOLUME 9**

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and CLO Holdco, Ltd.*

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

*Vol. 1*  
*000001*  
*000006*  
*000008*

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

*Vol. 2*  
*000479*  
*000515*  
*000516*

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)

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 001870

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)



6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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002163

13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

002175

002309

002322

Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) <u>2490</u> Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

TRANSCRIPT

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002705

78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

**PLAINTIFFS’ LIST OF POTENTIAL WITNESSES**

Plaintiffs respectfully submit their list of potential witnesses. In the event that the hearing on November 23, 2021 on Plaintiffs’ Motion to Stay All Proceedings, Plaintiffs’ Motion to Strike Reply Appendix, and Defendant Highland Capital Management, L.P.’s Motion to Dismiss Complaint ends up requiring testimony, Plaintiffs reserve the right to call the following witnesses:

- Steven Hastings, a financial expert who would testify that the value of the HCLOF interests owned by HarbourVest at the time of the settlement hearing were worth far in excess of the \$22.5 million reported at the hearing.
- Jane Jarcho, an expert in the industry and regulations of investment funds, and a former SEC enforcement attorney, would testify to the veracity of the allegations constituting violations of the Investment Advisers Act.

Dated: November 22, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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*Counsel for The Charitable DAF Fund, L.P.  
and CLO Holdco, Ltd.*

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

**PLAINTIFFS' LIST OF EXHIBITS**

Plaintiffs respectfully submit their exhibit list with respect to the following hearings on  
November 23, 2021, at 9:30 a.m.:

- *Plaintiffs' Motion to Stay All Proceedings* [AP Doc. 55]
- *Motion to Strike Reply Appendix* [AP Doc. 47]

- *Defendant Highland Capital Management, L.P.’s Motion to Dismiss Complaint* [AP Doc. 26]

Exh. No.	Description	Offered	Admitted
1	Defendant Highland Capital Management, L.P.’s Memorandum of Law in Support of Motion for Reconsideration in <i>The Charitable DAF Fund, L.P. v. Highland Capital Management, L.P.</i> , Case No. 3:21-cv-01710-N, In the United States District Court for the Northern District of Texas, Dallas Division [Doc. 9]		
2	Defendant Highland Capital Management, L.P.’s Memorandum of Law in Support of Its Motion to Dismiss in <i>The Charitable DAF Fund, L.P. v. Highland Capital Management, L.P.</i> , Case No. 3:21-cv-01710-N, In the United States District Court for the Northern District of Texas, Dallas Division [Doc. 12]		
3	Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief [Doc. 1943]		
4	Any document entered or filed in the Reorganized Debtor’s Bankruptcy Case, including any exhibits thereto		
5	All exhibits necessary for impeachment and/or rebuttal purposes		
6	All exhibits identified by or offered by any other party at the hearing		

Dated: November 22, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

Texas Bar No. 24058096

**Jonathan Bridges**

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*Counsel for Highland Capital Management, L.P.*

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

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THE CHARITABLE DAF FUND, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant.

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Case No. 3:21-cv-01710-N

**HIGHLAND’S CAPITAL MANAGEMENT, L.P.’S MEMORANDUM OF LAW IN  
SUPPORT OF MOTION FOR RECONSIDERATION OF STAY ORDER**



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**TABLE OF AUTHORITIES**

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Highland Capital Management, L.P. (“Highland”), the reorganized debtor and the putative defendant in the above-captioned action (the “Action”), submits this Memorandum of Law in support of its motion for reconsideration of the Stay Order (as defined below) that was recently entered by the Court without notice to, or opposition by, Highland (the “Motion”). In support of its Motion, Highland states as follows:

### I. PRELIMINARY STATEMENT<sup>1</sup>

1. Highland is a reorganized debtor, having emerged from bankruptcy on August 11, 2021, when its Plan went effective.

2. The Charitable DAF Fund, L.P. (“Plaintiff”), a “trust” that exists for the benefit of James Dondero, Highland’s former owner who is waging a never-ending grudge match against Highland’s stakeholders, commenced this action on July 22, 2021, but never served its Complaint.<sup>2</sup> Instead, on August 26, 2021, without notice to Highland, it filed *Plaintiffs’ Motion to Stay All Proceedings* [Docket No. 6] (the “Stay Motion”). On September 7, 2021, this Court entered an electronic order granting the unopposed Stay Motion [Docket No. 7] (the “Stay Order”).

3. The Stay Motion was just another piece of Mr. Dondero’s coordinated litigation strategy against Highland, its stakeholders, and its judicially approved fiduciaries to waste resources, delay adjudication of pending disputes, and impede the wind-down of Highland’s estate pursuant to the terms of its confirmed Plan.<sup>3</sup>

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<sup>1</sup> All capitalized terms used but not defined in this section have the meanings given to them below.

<sup>2</sup> Plaintiff filed the Complaint ostensibly to recover damages it incurred from Highland’s mismanagement of the Highland Multi Strategy Credit Fund, L.P. (“MSCF”) during Highland’s bankruptcy. Plaintiff has no interest in MSCF.

<sup>3</sup> Exhibit 1 (Appx. 1-15) to the Appendix lists the substantial litigation commenced or caused by Mr. Dondero and his controlled entities in furtherance of his strategy of harassment. As set forth in Exhibit 2 to the Appendix (Appx. 16-19), **the Stay Motion is one of nineteen motions for a continuance, stay, or abatement (exclusive of the motions to stay the Confirmation Order) filed by Mr. Dondero and his controlled entities since the entry of the Confirmation Order** – each of which seeks to delay final resolution of several pending lawsuits and appeals, most of which (like this action) they commenced.

4. Pursuant to Federal Rule of Civil Procedure 59(a) (“Rule 59”), the Court should reopen the Stay Order, amend its findings, and enter a new order denying the Stay Motion because the Stay Motion was never served (and Highland was therefore never given an opportunity to respond to the relief requested in the Stay Motion) and Plaintiff has mischaracterized the underlying facts.

5. In context, Plaintiff failed to satisfy its heavy burden of showing the extraordinary remedy of a stay is warranted. Indeed, Plaintiff did not even address the four-pronged test routinely applied to a request for a stay pending appeal in the Fifth Circuit. For example, (i) Plaintiff *cannot* succeed on the merits because it is not a party to the underlying appeal, (ii) there is no irreparable harm in the absence of a stay, and (iii) a stay would not serve the public interest.

6. Plaintiff did not object to or appeal the Confirmation Order, yet Plaintiff’s Stay Motion is premised on the pending appeals to which it is not a party. Further, and significantly, the Bankruptcy Court, the United States District Court, and the Fifth Circuit Court of Appeals previously denied the motions to stay the Confirmation Order that were filed by the actual Appellants (each of which is owned and/or controlled by Mr. Dondero).<sup>4</sup> There is no basis for Plaintiff to effectively obtain a stay of the Confirmation Order – particularly after the actual Appellants were unable to obtain a stay pending their own appeal of the Confirmation Order. Finally, Plaintiff’s reliance on certain Plan provisions, such as the Injunction Provision referenced above, is misplaced. While Highland maintains that this Action ultimately belongs in the Bankruptcy Court based on, among other reasons, the Injunction Provision, the extraordinary remedy of a stay pending appeal of the Confirmation Order has no application, or relevance, to the

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<sup>4</sup> The only parties appealing the Confirmation Order are the Appellants, which are Mr. Dondero and entities he owns and/or controls. Ex. 3, Appx. 40. (“[T]he Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero”).

effect of the Injunction Provision on the Action. Any stay of this Action premised on the Appeal of the Confirmation Order is simply not an appropriate remedy here.

7. For the reasons set forth above and below, and pursuant to Rule 59, Highland respectfully requests that the Court re-open the Stay Order, amend its findings, and enter a new order denying the Stay Motion.<sup>5</sup>

## II. RELEVANT BACKGROUND

### A. Case Background

8. On October 16, 2019 (the “Petition Date”), Highland commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Case”).

### B. The Plan and Confirmation Order

9. On February 22, 2021, the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) entered its *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Dkt. No. 1943] (the “Confirmation Order”) which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P (as Modified)* (the “Plan”). Pursuant to the Plan, as of the Effective Date (as defined in the Plan), Enjoined Parties (as defined in the Plan) are prohibited from pursuing or continuing actions of any kind against Highland (the “Injunction Provision”). The Plan and the Confirmation Order each provide, in pertinent part:

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<sup>5</sup> Pursuant to the Confirmation Order and the Plan, as of the Effective Date, Plaintiff is enjoined from conducting or continuing any suit or proceeding of any kind against Highland. *See* Docket No. 1943 (Confirmation Order) at 76-78 (Ex. 3, Appx. 96-98), and Ex. A (Plan) at 50-51 (Ex. 3, Appx. 167-168). For that reason, Highland is simultaneously filing a motion to dismiss this Action (the “Motion to Dismiss”). As set forth in the Plan, the Confirmation Order, and the Motion to Dismiss, Plaintiff will not be left without a remedy but has the right to seek to pursue the claims asserted in the Action as an administrative claim in the Bankruptcy Court.

## **Injunction**

Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, **all Enjoined Parties are and shall be permanently enjoined**, on and after the Effective Date, with respect to any Claims and Equity Interests, **from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor**, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

Confirmation Order at 76-78 (Ex. 3, Appx. 96-98), and Ex. A (Plan) at 50-51 (Ex. 3, 167-168) (emphasis added).<sup>6</sup> No appellant has appealed or challenged the foregoing language in the Injunction Provision. Plaintiff is an “Enjoined Party”<sup>7</sup> under the Plan, and by their express terms, the Confirmation Order and Plan expressly enjoin Plaintiff from continuing the Action.

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<sup>6</sup> The Injunction Provision also included a permanent injunction which enjoined “all Enjoined Parties. . . from taking any actions to interfere with the implementation or consummation of the Plan” (the “Permanent Injunction”) and a “gatekeeper” provision that prohibited all “Enjoined Parties” from pursuing claims against certain “Protected Parties” unless the Bankruptcy Court first found those claims to be colorable (the “Gatekeeper Provision”). Ex. 3, Appx. 74. While the Gatekeeper Provision also prevents Plaintiff from proceeding with the Action in this Court, it is the language in the Injunction Provision set forth above –which is not involved in the Appeal – that independently prohibits pursuit of this Action.

<sup>7</sup> “Enjoined Party” means, *inter alia*, “(i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.” Ex. 3, Appx. 125. Plaintiff satisfies sections (i), (iii), (iv), and (v) of the definition of “Enjoined Party.”

10. The Injunction Provision, however, does not leave putative claimants, like Plaintiff, without a course to pursue their claims. The Plan includes a mechanism allowing holders of claims arising after the Petition Date but prior to the Effective Date to assert claims. They may, at their election, file an application with the Bankruptcy Court seeking an allowed administrative claim. Article II of the Plan provides, in relevant part:

**Administrative Expensive Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; provided, however, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Plan at 16-17 (Ex. 4, Appx. 204-205). If Plaintiff wish to continue its Action, the Confirmation Order mandates that it do so by filing for an administrative claim.<sup>8</sup>

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<sup>8</sup> Under the Plan, the Administrative Expense Claim Bar Date passed on September 25, 2021, so Plaintiff would, in fact, be required to request an order from the Bankruptcy Court permitting it to file a late claim. Highland reserves the right to contest any such request.

**C. Appellants' Appeals of the Confirmation Order**

11. Following entry of the Confirmation Order, in March 2021, James Dondero and certain of his related entities, including: (i) Highland Income Fund, NexPoint Strategic Opportunities Fund, Highland Global Allocation Fund, and NexPoint Capital, Inc. (collectively, the "Funds"); (ii) Highland Capital Management Fund Advisors, L.P. and NexPoint Advisors, L.P. (together, the "Advisors"); and (iii) The Dugaboy Investment Trust (the "Trust," and together with James Dondero, the Advisors, and the Funds, the "Appellants") appealed the Confirmation Order.<sup>9</sup>

The only aspects of the Injunction Provision challenged by the Appellants were:

- The Permanent Injunction which the Appellants argued (i) is overbroad and vague because "implementation" and "consummation" were not defined; (ii) restricts certain of the Appellants' rights under contracts assumed via the Plan; and (iii) is an impermissible third-party release; and
- The Gatekeeper Provision which Appellants argued exceeded the Bankruptcy Court's jurisdiction.

Ex. 3, Appx. 74-75. No Appellant challenged or appealed the language of the Injunction Provision that "enjoin[s] [all Enjoined Parties]. . . from directly or indirectly (i) commencing, conducting, *or continuing in any manner* any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor." That is the language enjoining Plaintiff from continuing this Action.

**D. Motions to Stay Pending Appeals of Confirmation Order are Filed and Denied**

12. In March 2021, the Appellants also sought a stay of the Confirmation Order pending appeal (the "Bankruptcy Court Stay Motions").<sup>10</sup>

13. Unlike the Appellants, however, Plaintiff never objected to the Plan and never appealed the Confirmation Order.

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<sup>9</sup> See Bankruptcy Docket Nos. 1990, 1986, 1988, and 1992, respectively (Exs. 5-8, Appx. 249-273).

<sup>10</sup> See Bankruptcy Docket Nos. 1955, 1967, 1971, and 1973, respectively (Exs. 9-12, Appx. 274-381).



14. On March 16, 2021, the Bankruptcy Court entered an *Order Certifying Appeals of the Confirmation Order for Direct Appeal to the United States Court of Appeals for the Fifth Circuit* [Bankr. Dkt. No. 2034] (the “Certification Order”). (Ex. 13, Appx. 382-384).

15. On March 24, 2021, the Bankruptcy Court entered orders<sup>11</sup> denying the Bankruptcy Court Stay Motions (the “First Stay Denials”), finding, among other things, that Appellants “did not meet their burden of proof on the four-factor test articulated in case law to obtain a discretionary stay pending appeal.” [Bankr. Dkt. No. 2095 at 3]. (Ex. 15, Appx. 392).

16. In April 2021, Appellants filed motions for a stay pending appeal of the Confirmation Order in the District Court for the Northern District of Texas, Dallas Division (the “District Court”) (collectively, the “District Court Stay Motions”).<sup>12</sup>

17. Appellants subsequently filed petitions for direct appeal of the Confirmation Order to the Fifth Circuit.<sup>13</sup> On May 4, 2021, the Fifth Circuit entered an Order granting the Advisors’ Petition for direct appeal,<sup>14</sup> and on June 2, 2021, the Fifth Circuit entered an Order granting the remaining Appellants’ Petitions for direct appeal (collectively, the “Appeal”).<sup>15</sup>

18. Shortly after the District Court Stay Motions became ripe, on May 19, 2021, the Advisors filed a stay motion in the Fifth Circuit pending appeal of the Confirmation Order based on arguments identical to those asserted in the District Court Stay Motions (the “Fifth Circuit Stay”).

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<sup>11</sup> See Bankruptcy Docket Nos. 2084 and 2095, respectively. Exs. 14-15, Appx. 385-393.

<sup>12</sup> See Case Nos. 3:21-cv-550 (Docket No. 5) Ex. 16, Appx. 394-398; 3:21-cv-538 (Docket No. 2) Ex. 17, Appx. 399-403; 3:21-cv-539, and 3:21-cv-546.

<sup>13</sup> See Case No. 21-90011, Documents 515826308, 515803515, 515824511, 515824443. Exs. 18-21, Appx. 404-953.

<sup>14</sup> See Case No. 21-90011, Document 515847079. Ex. 22, Appx. 954-957.

<sup>15</sup> See Case No. 21-90011, Document 515884578. Ex. 23, Appx. 958-961.

Motion”).<sup>16</sup> On June 21, 2021, the Fifth Circuit denied the Fifth Circuit Stay Motion (the “Second Stay Denial”).<sup>17</sup>

19. On June 23, 2021, the District Court entered its Order denying the District Court Stay Motions [Dist. Ct. Docket No. 28] (Ex. 26, Appx. 999-1002) (the “Third Stay Denial,” and together with the First Stay Orders and Second Stay Order, the “Stay Denials”) on the ground that “the Fifth Circuit has already reviewed and denied a motion with identical arguments.” *Id.* at 3.

**E. Plaintiff Commences the Action but Never Serves Highland, and the Plan Goes Effective**

20. On July 22, 2021, Plaintiff commenced the Action by filing its *Original Complaint*. [Docket No. 1] (the “Complaint”). Plaintiff never served the Complaint.

21. On August 11, 2021, the Plan became Effective (as defined in the Plan), and Highland became the Reorganized Debtor (as defined in the Plan). *See Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Bankr. Dkt. No. 2700] (Ex. 27, Appx. 1003-1007).

**F. Plaintiff Moves for a Stay of the Action**

22. On August 26, 2021, Plaintiff filed the Stay Motion, requesting a stay of the Action pending resolution of the Fifth Circuit Appeal of the Confirmation Order. In support of its Motion, Plaintiff contended that the Appeal “includes direct challenges to the validity” of the Plan’s exculpation and injunction provisions, that these “provisions are currently in force and prohibit Plaintiffs from continuing this [A]ction,” and the “most efficient course of action” is for a stay. Stay Motion at 4. As discussed below, even if this Court determines that the Appeal of the Confirmation Order is somehow relevant, the Motion would still be denied as no aspect of the

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<sup>16</sup> See Case No. 21-10449, Document 515869234. Ex. 24, Appx. 962-995.

<sup>17</sup> See Case No. 21-10449, Document 515906886. Ex. 25, Appx. 996-998.

Appeal challenges the provisions of the Injunction Provision that enjoin Plaintiff from prosecuting the Action in this Court.

23. For the reasons that follow, the Court should (a) re-open the Order, amend the findings and conclusions, and issue a new order denying the Stay Motion, and (b) grant such other and further relief as the Court deems just and proper.

### III. ARGUMENT

#### **Plaintiff Failed to Demonstrate a Stay Was Warranted**

24. As set forth herein, there was no factual, legal, or equitable basis for the Stay Motion and, pursuant to Rule 59, this Court should re-open the Order, amend the findings and conclusions, and issue a new order denying the Stay Motion.

25. Plaintiff failed to address, let alone satisfy, the strict four-pronged test required for a stay pending appeal in the Fifth Circuit. A stay pending appeal is warranted only if a movant establishes the following four elements: (1) substantial likelihood of success on the merits of its appeal; (2) irreparable injury if the stay is not granted; (3) the stay will not substantially harm other parties; and (4) the stay would serve the public interest. *See Belcher v. Birmingham Trust Nat'l Bank*, 395 F.2d 685, 686-87 (5<sup>th</sup> Cir. 1968); *In re First S. Sav. Assoc.*, 820 F.2d 700, 704 (5th Cir. 1987). The moving party “bears the burden of establishing its need,” and must “make out a clear case of hardship or inequity in being required to go forward.” *Earl v. Boeing Co.*, 4:19-CV-507, 2021 WL 1080689, at \*3 (E.D. Tex. Mar. 18, 2021) (internal quotations omitted).

26. For obvious reasons, Plaintiff ignored these four factors in its Motion. Plaintiff did not object to or appeal the Confirmation Order. Instead, Plaintiff sought a stay of the Action premised on a pending Appeal (a) in which (i) it is not a party and (ii) there is no challenge to the portion of the Injunction Provision prohibiting Plaintiff from proceeding with the Action in this Court, and (b) where three different courts, including this Court and the Fifth Circuit, issued the

Stay Denials against the Appellants when they requested stays pending this same Appeal. Plaintiff has no standing to seek a stay of an order pending an Appeal to which they are not a party and, therefore, cannot satisfy the “likelihood of success” element. Plaintiff equally fails to show any irreparable injury in the absence of a stay or that a stay would serve the public interest.

27. Moreover, Plaintiff’s vague and conclusory assertion that “many complex legal questions exist” in the Fifth Circuit Appeal that “may affect the viability of this Action” also does not support the imposition of a stay. Motion at 4. Again, three courts, including the Fifth Circuit, have already rejected Stay Motions premised on this Appeal.

28. Finally, Plaintiff’s reliance on the Appellants’ challenges to Injunction Provision are misguided. *See* Motion at 4. As set forth above, the Appellants are challenging the Permanent Injunction and the Gatekeeper Provision in their appeal of the Confirmation Order – not the provisions of the Injunction Provision relevant to the Motion, *i.e.*, the provision enjoining Plaintiff from continuing the Action in this Court. Highland maintains that the Action belongs in the Bankruptcy Court for many reasons, including the Injunction Provision, and that if Plaintiff wishes to pursue remedies that it should do so by seeking leave to file a late claim against Highland’s bankruptcy estate as required by the Plan and Confirmation Order. However, pursuant to this very provision, the remedy of a stay of proceedings is an entirely distinct procedural device that has no application to the Plan or the Appeal.

29. To the extent Plaintiff relies on the exculpation provision, such reliance is irrelevant for purposes of the Motion.<sup>18</sup> Plaintiff otherwise failed to demonstrate why the extraordinary remedy of a stay of this Action is warranted or appropriate

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<sup>18</sup> That provision deals with the exculpation from liability of Highland’s independent directors, their agents, and their advisors. *See* Plan, Art. IX.C. Neither Highland nor the viability of this Action is implicated by such a provision.

**CONCLUSION**

WHEREFORE, Highland respectfully requests that the Court (a) re-open the Stay Order, amend the findings and conclusions, and issue a new order denying the Stay Motion, and (b) grant such other and further relief as the Court deems just and proper.

Dated: October 5, 2021.

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-and-

**HAYWARD PLLC**

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*Counsel for Highland Capital Management, L.P.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on October 5, 2021, a true and correct copy of the foregoing Memorandum of Law was served electronically upon all parties registered to receive electronic notice in this case via the Court's CM/ECF system.

*/s/ Zachery Z. Annable*

\_\_\_\_\_  
Zachery Z. Annable



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

THE CHARITABLE DAF FUND, L.P.,

Plaintiff,

vs.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Defendant.

Case No. 3:21-cv-01710-N

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**HIGHLAND’S MEMORANDUM OF LAW  
IN SUPPORT OF ITS MOTION TO DISMISS**

**EXHIBIT**

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exhibitster.com

Highland Capital Management, L.P. (“Highland”), a reorganized debtor and the putative defendant in the above-captioned action (the “Action”), submits this Memorandum of Law in support of its motion to dismiss the Action (the “Motion”).<sup>1</sup> In support of its Motion, Highland states as follows:

### I. PRELIMINARY STATEMENT<sup>2</sup>

1. Highland is a reorganized debtor, having emerged from bankruptcy on August 11, 2021, when its Plan went effective.

2. The Charitable DAF Fund, L.P. (“Plaintiff”), a “trust” that exists for the benefit of James Dondero, Highland’s former owner who is waging a never-ending grudge match against Highland’s stakeholders, commenced this action on July 22, 2021 but never served its Complaint. Instead, on August 26, 2021, without notice to Highland, it filed *Plaintiffs’ Motion to Stay All Proceedings* [Docket No. 6] (the “Stay Motion”). On September 7, 2021, this Court entered an electronic order granting the unopposed Stay Motion [Docket No. 7] (the “Stay Order”).

3. Highland is simultaneously filing its *Motion for Reconsideration of Stay Order* and supporting documentation (together, the “Reconsideration Motion”). For the reasons set forth in the Reconsideration Motion and herein, Highland respectfully requests that the Court (a) grant the Reconsideration Motion and enter a new order vacating the Stay Order and denying the Stay Motion, and (b) then grant this Motion to Dismiss.

4. This Court should enforce the Confirmation Order and dismiss the Action. The Confirmation Order and Plan enjoin Plaintiff from continuing any action or suit against Highland,

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<sup>1</sup> Concurrently herewith, Highland is filing the *Appendix in Support of Highland Capital Management, L.P.’s Motion for Reconsideration of a Stay Order* (the “Appendix”). Citations to the Appendix are notated as follows: Ex. #, Appx. #.

<sup>2</sup> All capitalized terms used but not defined in this section have the meanings given to them below.

and mandate that claims against Highland be brought in the Bankruptcy Court following the Effective Date pursuant to the Injunction Provision. Dismissal of the Action is also warranted because the purported claims asserted against Highland arise from transactions that took place post-petition, and, to the extent valid, would constitute post-petition administrative claims. The Plan provides specific a procedure through which holders of purported administrative claims, such as Plaintiff, can file an application with the Bankruptcy Court for allowance of its administrative expense claims. Under the Confirmation Order and Plan, this Court is not the appropriate venue for this Action.

5. For the reasons set forth above and below, and pursuant to Federal Rules of Civil Procedure 12(b)(1), (3), (4), and (6), Highland respectfully requests that the Court dismiss the Action.

## II. RELEVANT BACKGROUND

### A. Case Background

6. On October 16, 2019 (the “Petition Date”), Highland commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Case”).

### B. The Plan and Confirmation Order

7. On February 22, 2021, the Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”) entered its *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Bankr. Dkt. No. 1943] (Ex. 1, Appx. 1-162) (the “Confirmation Order”) which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P (as Modified)* (Ex. 2, Appx. 163-229) (the “Plan”). Pursuant to the Plan, as of the Effective Date (as defined in the Plan), Enjoined Parties (as defined in the Plan) are prohibited from pursuing or continuing actions of any kind against

Highland (the “Injunction Provision”). The Plan and the Confirmation Order each provide, in pertinent part:

**Injunction**

Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, **all Enjoined Parties are and shall be permanently enjoined**, on and after the Effective Date, with respect to any Claims and Equity Interests, **from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor**, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation SubTrust, and the Claimant Trust and their respective property and interests in property.

...

**The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable** and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

Ex. 1, Appx. 77-79, and Ex. 2, Appx. 220-221 (emphasis added). By their terms, the Confirmation Order and Plan expressly enjoin Plaintiff from continuing the Action.

8. The Injunction Provision, however, does not leave putative claimants without a course to pursue their claims. The Plan includes a mechanism allowing holders of claims arising after the Petition Date but prior to the Effective Date to assert claims. They may, at their election,

file an application with the Bankruptcy Court seeking an allowed administrative claim. Article II of the Plan provides, in relevant part:

**Administrative Expensive Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; provided, however, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Ex. 2, Appx. 185-186. If Plaintiff wished to continue its Action, the Confirmation Order mandates that it do so by filing for an administrative claim.<sup>3</sup>

**C. Plaintiff Commences the Action but Never Serves Highland, and the Plan Goes Effective**

11. On July 22, 2021, Plaintiff commenced the Action by filing its *Original Complaint*. [Docket No. 1] (the “Complaint”). Plaintiff never served the Complaint.

12. On August 11, 2021, the Plan became Effective (as defined in the Plan), and Highland became the Reorganized Debtor (as defined in the Plan). *See Notice of Occurrence of Effective Date*

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<sup>3</sup> Under the Plan, the Administrative Expense Claim Bar Date passed on September 25, 2021, so Plaintiff would, in fact, be required to request an order from the Bankruptcy Court permitting it to file a late claim. Highland reserves the right to contest any such request.

of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. [Bankr. Dkt. No. 2700] (Ex. 3, Appx. 230-234).

**D. Plaintiff Obtains an Unopposed Stay of the Action and Highland Seeks Reconsideration**

9. On August 26, 2021, Plaintiff filed the Stay Motion, requesting a stay of the Action pending resolution of the Fifth Circuit Appeal of the Confirmation Order. In support of its Motion, Plaintiff contended that the Appeal “includes direct challenges to the validity” of the Plan’s exculpation and injunction provisions, that these “provisions are currently in force and prohibit Plaintiffs from continuing this [A]ction,” and the “most efficient course of action” is for a stay. Stay Motion at 4.

10. On September 7, 2021, this Court entered the Stay Order. Highland is simultaneously filing its Reconsideration Motion.

**III. ARGUMENT**

**A. The Confirmation Order Should Be Enforced and the Action Should Be Dismissed**

11. Dismissal of the Action is warranted under the Confirmation Order and the Plan for two reasons: (i) Plaintiffs are enjoined from pursuing the Action against Highland, and (ii) the claims, to the extent valid, constitute post-petition administrative claims which Plaintiff, if it elects, can assert against Highland in the Bankruptcy Court pursuant to the procedure set forth in the Plan and Confirmation Order.

**1. Plaintiff Is Enjoined from Continuing the Action**

12. Pursuant to the Confirmation Order and the Plan, as of the Effective Date, Plaintiff is enjoined from conducting or continuing any suit or proceeding of any kind against Highland. See Docket No. 1943 (Confirmation Order) at 76-78 at 76-78 (Ex. 1, Appx. 77-79), and Ex. A (Plan) at 50-51 (Ex. 2, Appx. 219-220).



13. The parties are bound by the Confirmation Order. *See U.S. v. Ramirez*, 291 B.R. 386, 392 (N.D. TX. 2002) (stating that a “confirmed Chapter 11 plan constitute[s] a binding contract”). Accordingly, this Court should enforce the Confirmation Order and dismiss this Action on the basis that the Confirmation Order prohibits the continuation of this Action in this Court. The Bankruptcy Court has jurisdiction over any claims against Highland.

**2. The Claims Asserted Should Be Adjudicated by the Bankruptcy Court Pursuant to the Procedure for Asserting Administrative Claims in the Plan**

14. The claims asserted in the Action constitute alleged administrative claims that should be adjudicated in the Bankruptcy Court, if at all, and for this additional reason, dismissal of the Action is warranted.

15. As noted *supra*, the Action arises from actions taken by Highland post-petition. The Action is nothing more than a request for payment of an unliquidated and disputed administrative claim which will be subject to allowance or disallowance under the Bankruptcy Code and in accordance with the Plan, and once paid or disallowed, will be discharged. A request for payment of an administrative claim is a core proceeding under 28 U.S.C. § 157(B)(2)(A) and (O), and arises in and under title 11. Thus, the Action is a post-petition claim, and should be filed as a request for an allowed administrative claim in the Bankruptcy Court in accordance with Bankruptcy Code section 503. *See In re Endeavour Highrise L.P.*, 425 B.R. 402, 419 (Bankr. S.D. Tex. 2010) (“[A] party asserting a post-petition claim should file an application with the court and request an order establishing the claim as an allowed administrative claim or an allowed post-petition claim pursuant to a particular statute”).

16. Article II of the Plan provides the methodology for the filing and allowance of administrative claims. A holder of a claim that arises post-petition files a request for payment of an administrative claim under section 503 of the Bankruptcy Code and such claim will be afforded

“administrative priority” if the claim arose post-petition and as a result of actions taken by the debtor that benefitted the estate. *See Matter of Whistler Energy II, L.L.C.*, 931 F.3d 432, 441–42 (5th Cir. 2019) (noting that administrative claims “under section 503(b)(1)(A) ... must have arisen post-petition and as a result of actions taken by the trustee [or debtor-in-possession] that benefitted the estate,” and an administrative priority claim “must have arisen from a transaction with the debtor in possession,” as opposed to the pre-petition debtor); *In re Am. Plumbing & Mech., Inc.*, 323 B.R. 442, 459 and n.23 (Bankr. W.D. Tex. 2005) citing *Toma Steel Supply, Inc. v. TransAmerican Natural Gas Corp. (In Matter of TransAmerican Natural Gas Corp.)*, 978 F.2d 1409, 1416 (5th Cir. 1992).

17. In order to enforce the terms of the Plan and Confirmation Order, this Action should be dismissed so that Plaintiff, if it so chooses, can refile its claims with the Bankruptcy Court.

### **CONCLUSION**

WHEREFORE, Highland respectfully requests that the Court (a) grant the Motion and dismiss the Action, and (b) grant such other and further relief as the Court deems just and proper.

Dated: October 5, 2021.

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-and-

**HAYWARD PLLC**

*/s/ Zachery Z. Annable*

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*Counsel for Highland Capital Management, L.P.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on October 5, 2021, a true and correct copy of the foregoing Memorandum of Law was served electronically upon all parties registered to receive electronic notice in this case via the Court's CM/ECF system.

*/s/ Zachery Z. Annable*

\_\_\_\_\_  
Zachery Z. Annable




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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

  
United States Bankruptcy Judge

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

\_\_\_\_\_)  
In re: ) Chapter 11  
\_\_\_\_\_)  
HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup> ) Case No. 19-34054-sgj11  
\_\_\_\_\_)  
Debtor. )  
\_\_\_\_\_)

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.

*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*



*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor’s Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor’s Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an “asset monetization plan” because it involves the orderly wind-down of the Debtor’s estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor’s economic stakeholders. The Claimant Trustee is responsible

for this process, among other duties specified in the Plan's Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor's economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan's release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor's case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the

bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are

offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor’s Operational History.** The Debtor’s primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor’s current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was “run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits.” The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor’s Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.



The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has

continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended

proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty's claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as "HarbourVest" invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest's claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee's relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from

Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).

13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was

much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also



included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

16. **Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing

were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrate Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

**17. Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court

questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor's 2008 return, which the Debtor believes arise from Get Good's equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor's alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the "Highland Advisors and Funds." *See* Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post's credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors' request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently

testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and



Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.’s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States’ (IRS) Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty’s Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty’s claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.

22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor's Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC ("KCC"), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in

connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the “Plan Modifications”). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of

section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were

distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other



Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors

will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is

Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy

Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.

- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.



44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trust Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.

45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the

Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the

Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity

Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.

- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).



49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

Article IV.B of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).**

The Plan does not provide for any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.

- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and

certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will

periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does



not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.

61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business

in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be

assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

**69. Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

**70. Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor’s release of the Debtor’s and Estate’s claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a “disguised” release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor’s conditional release of claims against employees, as identified in the Plan, and the Plan’s conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual

fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at



their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief

Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors' objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber's* denial of exculpation for certain parties other than a creditors' committee and its members is that section 524(e) of the Bankruptcy Code "only releases the debtor, not co-liable third parties." *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors' committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee." *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy-based and based on a creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not

part of the Debtor's enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors' committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber's* policy of exculpating creditors' committees and their members from "being sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case" is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that "costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization." *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero's pot plan does not get approved, that Mr. Dondero will "burn the place down." The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.

75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is

colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to

as frivolous and a waste of the Bankruptcy Court's time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor's settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court's order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero's affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the "Dondero Post-Petition Litigation").

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery's credible testimony, that if Mr. Dondero's plan proposal was not accepted, he would "burn down the place." The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery's testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result



in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor's insurance broker ("AON"), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor's assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected

Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the

Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.



sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the

representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.

**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts

include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will

be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the



Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the

Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.

assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Ferona Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date

must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,

discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);



*provided, however,* the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in

Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or

any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,

including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the



Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.

**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under

applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.

**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the

avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior

Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable



immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have

any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that

the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

**Exhibit A**

**Fifth Amended Plan (as Modified)**

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

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

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

**PACHULSKI STANG ZIEHL & JONES LLP**

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Counsel for the Debtor and Debtor-in-Possession

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



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## DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

### **ARTICLE I.** **RULES OF INTERPRETATION, COMPUTATION OF TIME,** **GOVERNING LAW AND DEFINED TERMS**

#### **A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set



forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

## **B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests

unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized



Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,

and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.



102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder



of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on

or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed

Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF  
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until



full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. Class 2 – Frontier Secured Claim

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6

Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

#### **I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

#### **J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

### **ARTICLE IV.** **MEANS FOR IMPLEMENTATION OF THIS PLAN**

#### **A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

## **B. The Claimant Trust<sup>2</sup>**

### **1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.**

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.



such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

## 2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;

(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer

of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.



11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and



no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

### **C. The Reorganized Debtor**

#### **1. Corporate Existence**

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

#### **2. Cancellation of Equity Interests and Release**

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

#### **3. Issuance of New Partnership Interests**

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,

the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.



**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),



as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however,* that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.



**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

## **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

## **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on

the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing

will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

#### **D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation



Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

## **E. Preservation of Rights of Action**

### **1. Maintenance of Causes of Action**

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

### **2. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,



without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

#### **F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**

(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the



Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700

Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to

evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By:

James P. Seery, Jr.

Chief Executive Officer and Chief Restructuring Officer



Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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ZAnnable@HaywardFirm.com

*Counsel for the Debtor and Debtor-in-Possession*

**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### **Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.



19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS (DALLAS)

IN RE:	.	Case No. 19-34054-11 (SGJ)
	.	
HIGHLAND CAPITAL	.	
MANAGEMENT, L.P.,	.	
	.	
Debtor.	.	
. . . . .	.	
	.	Adv. No. 21-03067 (SGJ)
CHARITABLE DAF FUND, LP,	.	
et al.,	.	
	.	
Plaintiffs,	.	Earle Cabell Federal Building
	.	1100 Commerce Street
v.	.	Dallas, Texas 75242
	.	
HIGHLAND CAPITAL,	.	
MANAGEMENT, L.P., et al.,	.	
	.	
Defendants.	.	Tuesday, November 23, 2021
. . . . .	.	9:40 a.m.

TRANSCRIPT OF HEARING ON  
PLAINTIFFS' MOTION TO STAY ALL PROCEEDINGS (55);  
PLAINTIFFS' MOTION TO STRIKE REPLY APPENDIX (47); AND  
DEFENDANTS' MOTION TO DISMISS COMPLAINT (26)

**BEFORE HONORABLE STACEY G. JERNIGAN  
UNITED STATES BANKRUPTCY COURT JUDGE**

TELEPHONIC APPEARANCES CONTINUED ON NEXT PAGE.

Audio Operator: Hawaii S. Jeng

Proceedings recorded by electronic sound recording, transcript  
produced by a transcript service.

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1 THE COURT: Good morning. Please be seated.

2 All right. We have a setting in the Charitable DAF  
3 Fund, et al., v. Highland, Adversary 21-3067. We have three  
4 motions that are set.

5 Let me get appearances from the Plaintiffs' counsel  
6 first. Go ahead.

7 MR. SBAITI: Good morning, Your Honor. This is Mazin  
8 Sbaiti for the Plaintiffs.

9 THE COURT: Okay. Thank you.

10 Now for the Defendants, who do we have appearing?

11 MR. POMERANTZ: Good morning, Your Honor. It's Jeff  
12 Pomerantz and John Morris from Pachulski Stang Ziehl & Jones.  
13 Your Honor, before -- I understand Your Honor is going to take  
14 up the motion to stay first.

15 Before Your Honor does so, I have a procedural issue  
16 relating to that motion that I would like to address the Court  
17 after appearances are made.

18 THE COURT: All right. I assume that's all the  
19 lawyer appearances for this adversary.

20 MR. JORDAN: Your Honor?

21 THE COURT: Oh, go ahead.

22 MR. JORDAN: Your Honor, we are a nominal defendant,  
23 but John Jordan on behalf of Highland CLO Funding, Ltd.

24 THE COURT: Okay. Thank you. Sorry about that.

25 MR. BESSETTE: And, Your Honor, Paul Bessette, Mr.

1 Jordan's colleague is on the phone, as well.

2 THE COURT: Okay. Thank you.

3 All right. Anyone else I missed?

4 (No audible response)

5 THE COURT: All right. Mr. Pomerantz, your  
6 procedural issue?

7 MR. POMERANTZ: Thank you, Your Honor.

8 Your Honor, I must once again bring to this Court's  
9 attention a violation of the Court Rules by the various counsel  
10 representing Mr. Dondero. This time it's by Mr. Sbaiti.

11 When the district court entered its order granting  
12 Highland's motion to enforce the reference and referring this  
13 matter to Your Honor, there were three matters on the Court's  
14 docket, district court's docket that got transferred. First  
15 was the motion to dismiss, second was the motion to stay, and  
16 third was the motion to strike, which essentially has been  
17 rendered moot.

18 The briefing was complete with respect to the first  
19 two matters, the motion to dismiss and the motion to stay. And  
20 all that remained for the Court to do was to set a hearing and  
21 have oral argument. Your Honor, on October 13th, Your Honor  
22 set a hearing for today for each of those two motions.  
23 Nevertheless, on November 10th, almost a month after the Court  
24 set the matters for hearing and after pleadings were closed,  
25 Plaintiffs filed what they called their amended motion to stay.

1           As an initial matter, Your Honor, the amended motion  
2 was not even filed in this adversary proceeding initially. It  
3 was filed in the main case, and there was an error that Mr.  
4 Sbaiti corrected on November 18th, five days before this  
5 hearing. Plaintiff did not ask for leave of court to file any  
6 further pleadings. They did not provide the time under the  
7 local rules for response. And, in fact, they raised additional  
8 arguments in their amended motion.

9           Well, Your Honor, we can certainly argue to the Court  
10 that the amended motion constitutes a new motion, is untimely,  
11 and the hearing should be continued to allow us to file a  
12 response. We're not going to do that, Your Honor. As I will  
13 discuss when it's my time to respond substantively to the  
14 motion, the new arguments to stay the proceedings, the amended  
15 motion are equally as frivolous as the arguments contained in  
16 the original motion.

17           But I bring this to the Court's attention because,  
18 again, it's extremely frustrating to have the lawyers  
19 representing Mr. Dondero's related entities continue to act as  
20 if the rules do not apply to them. Your Honor will recall just  
21 a week or so ago, Your Honor made a -- we had a similar issue  
22 in connection with the motion to dismiss. Failure to follow  
23 the rules is unprofessional, and it's disrespectful not only to  
24 Highland's professionals but also to the Court and it  
25 interferes with Your Honor's ability to control your docket and

1 sufficiently prepare for contested matters.

2 At some point, Your Honor, there should be real  
3 consequences for the continued violation of the rules. Having  
4 said that, Your Honor, we are prepared to go forward with the  
5 motion to stay today.

6 THE COURT: All right. Mr. Sbaiti, what say you?  
7 I'm looking at Docket Entry Number 69 in the adversary  
8 proceeding that was filed last Thursday. So, obviously, very,  
9 very late in the game, shall we say. What is your response to  
10 this?

11 MR. SBAITI: Your Honor, that was not filed in the  
12 adversary as an error. When we asked one of our paralegals to  
13 file it, we're not as familiar with the bankruptcy court system  
14 and it was an error. It was corrected once the lawyers  
15 realized it, which was last -- which was on November the 18th.  
16 It was filed in, I guess in the main case. But it was simply  
17 an inadvertent error, Your Honor.

18 MR. POMERANTZ: I would add, Your Honor, the original  
19 motion filed inadvertently was November 10th. It still was not  
20 timely. I think Mr. Sbaiti needs to answer the question of why  
21 that was filed untimely, okay.

22 THE COURT: All right. Thank you, Mr. Sbaiti.

23 So, one of my pet peeves in life is people blaming  
24 paralegals, by the way. But be that as it may, as Mr.  
25 Pomerantz points out that it was still untimely the motion

1 filed in the underlying bankruptcy case November 10th. So what  
2 is your --

3 MR. SBAITI: Your Honor, when we looked at the motion  
4 and looked at the progression of the case, we filed an amended  
5 motion simply to clarify our position. And really I don't  
6 think we've changed our arguments all that much. We simply  
7 clarified our position. We've seen amended motions filed in  
8 the bankruptcy in our prior dealings, and so at that point, we  
9 felt like there wasn't a rule explicitly saying we couldn't  
10 have an amended motion.

11 But if it's untimely, Your Honor, you know, we don't  
12 think it changes the underlying arguments. As Mr. Pomerantz  
13 said, we don't think there's any prejudice to Highland either.

14 THE COURT: All right. Well, just to be clear, you  
15 know, it's one thing in an underlying bankruptcy case to file  
16 an amended motion after you've gotten a motion set for hearing  
17 that might slightly adjust, you know, facts or relief sought.  
18 And, of course, we independently look at it when it happens in  
19 an underlying case to see do we need more notice to affected  
20 parties.

21 But in an adversary proceeding, you know, you just  
22 don't do this. All right? If you have some sort of  
23 exceptional circumstances, you can file I guess a motion to  
24 amend because I got to include this new information that didn't  
25 exist. But you just don't do this, okay?

1           So I don't -- could you be clear what was the new  
2 information? What was the new information that had to be  
3 brought before the Court suddenly?

4           MR. SBAITI: Your Honor, there wasn't new  
5 information. We were simply giving notice of our understanding  
6 of where the legal arguments were going. The reason being is  
7 that after those motions were filed and recently, the debtor  
8 took the position in two other cases that they should be  
9 dismissed pursuant to the permanent injunction.

10           And so that clarified for us at least a couple of  
11 arguments that were unclear to us where the debtor stood on  
12 whether or not the permanent injunction would be a basis to  
13 dismiss or stay any of the claims that were pending. There are  
14 two other claims pending in district court. Since we had filed  
15 that motion, the debtor filed a motion to reconsider the stays  
16 that were granted in those two courts. And then they also  
17 moved to dismiss on the basis of the permanent injunction.

18           And so given that the debtor took the position that  
19 they were willing to dismiss those cases based upon the  
20 permanent injunction, it in many ways contravenes the position  
21 they took in response to our motion which is that the -- for  
22 example, they somewhat take the position in Paragraph 22, it  
23 wasn't as clear then but it's clear -- it seems clearer now  
24 that the permanent injunction is not relevant to whether or not  
25 the case can go forward in any capacity.



1           And so we simply wanted to incorporate that, but it's  
2 mainly legal argument about the choices that are before the  
3 Court. That was really it. I mean, theoretically, I would  
4 have made them for the first time during oral argument and we  
5 thought we were doing something good by giving -- apprising the  
6 Court in writing and giving notice of these arguments to the  
7 other side by filing an amended motion. We didn't add new  
8 evidence or anything like that.

9           MR. POMERANTZ: Your Honor, that argument is  
10 completely disingenuous because our motion to dismiss and  
11 motion for reconsideration that Mr. Sbaiti refers to is several  
12 weeks ago, okay. It wasn't November 10th. It was several  
13 weeks ago.

14           I will respond substantively why Mr. Sbaiti is wrong  
15 and there's no inconsistent positions when it's my time to  
16 speak. But for Mr. Sbaiti to say he was doing us a favor and  
17 he was reacting to recent new information is just wrong, Your  
18 Honor. And they should just not be continued to allowed to get  
19 away with flouting the rules.

20           THE COURT: All right. Well, let me just say I'm  
21 confused, maybe I should say baffled, about this amended  
22 motion. You know, the motion to dismiss that is before the  
23 Court for oral argument today isn't about the injunction, isn't  
24 about the plan injunction. It's about res judicata and other  
25 12(b)(6) arguments.

1           So I'm confused and I think, you know, it's been  
2 clear for many months in this adversary proceeding, in  
3 particular, the debtor's position on the plan injunction,  
4 particularly, you know, in the whole argument on the motion to  
5 leave to add Mr. Seery as a defendant.

6           So I'm confused, but we're going to go forward on the  
7 argument today, whatever argument you want to make. And you've  
8 been, I guess, forewarned. I will say that these last-minute  
9 amended motions are not going to be tolerated, are not going to  
10 be considered. And so, you know, I hope you won't do it again.  
11 Your firm has already been sanctioned once in this adversary  
12 proceeding. I'm sure we all remember.

13           So, you know, I'm just kind of baffled why you would  
14 take a chance filing an amended motion without leave or somehow  
15 getting it to the attention of the Court or running it by the  
16 other parties for their consent to you doing it. But we're  
17 going to go forward and just hear the arguments, okay. And so  
18 --

19           MR. SBAITI: Thank you.

20           THE COURT: -- I'll hear your argument.

21           I'm letting people know I don't know where this time  
22 estimate came on the calendar today, three hours. I don't know  
23 if someone specifically expressed that. But I'm letting you  
24 know at noon I have a swearing-in ceremony that I'm doing back  
25 in my chambers. So I will stop at noon Central time.

1 And so does anyone think that's going to be a  
2 problem?

3 MR. SBAITI: It should not be, Your Honor, from our  
4 perspective.

5 THE COURT: Mr. Pomerantz?

6 MR. POMERANTZ: I don't believe so. Mr. Morris is  
7 going to handle the motion to dismiss which is going to be the  
8 bulk. My presentation on the motion to stay is only going to  
9 be around ten minutes or so.

10 THE COURT: Okay. Thank you.

11 Mr. Sbaiti, your argument on the motion for stay.

12 MR. SBAITI: Thank you, Your Honor.

13 Your Honor, may I share my screen?

14 THE COURT: You may.

15 MR. SBAITI: I have a PowerPoint that can kind of --

16 THE COURT: Okay. You may.

17 MR. SBAITI: -- walk us through. Thank you.

18 Is Your Honor able to see my screen?

19 THE COURT: I can, yes.

20 MR. SBAITI: Thank you, Your Honor.

21 Your Honor, what I would point you to is, first, the  
22 injunction language. This is what Your Honor's permanent  
23 injunction says, and this is really what animates our motion to  
24 stay. Our motion to stay is derived specifically because my  
25 clients and I feel like our case has been enjoined by this

1 injunction, if not completely disposed of.

2 The language says that we're enjoined:

3 "An enjoined party is permanently enjoined from  
4 commencing, conducting, or continuing in any manner  
5 any suit, action, or other proceeding of any kind  
6 including any proceeding in a judicial, arbitral,  
7 administrative, or other forum against or affecting  
8 the debtor or the property of the debtor."

9 And then (v) of that injunction says:

10 "or acting or proceeding in any manner in any place  
11 whatsoever that does not conform to or comply with  
12 the provisions of the plan."

13 One of the things that was suggested in Paragraph 22  
14 of their response was that the DAF and Holdco are not enjoined  
15 parties. But the final plan defines an enjoined party in  
16 Article 1(b) (56) as any entity who has or -- all entities who  
17 have held, hold, or may hold claims against the debtor; any  
18 entity that has appeared and/or filed any motion, objection, or  
19 other pleading in this Chapter 11 case regardless of the  
20 capacity in which such entity appeared and any other party in  
21 interest. And, five, the related persons of each of the  
22 foregoing.

23 Article 1(b) (22) defines a claim as any claim that's  
24 defined in Section 1015 of the Bankruptcy Code. And Section  
25 1015 of the Bankruptcy Code defines a claim as a right to

1 payment whether or not such right is reduced to judgment,  
2 liquidated, unliquidated, fixed, contingent, matured,  
3 unmatured, disputed, undisputed, legal, equitable, secured, or  
4 unsecured.

5           So given this definition, when we've read this  
6 injunction, we believed that we were enjoined parties, the DAF  
7 and Holdco were both enjoined parties. They had appeared in  
8 the -- they have claims. Obviously, those are the claims being  
9 asserted here.

10           And so going back to the injunction language, we  
11 believe this lawsuit has been disposed of by this permanent  
12 injunction. We believe there's really only one or two things  
13 that should probably happen with this lawsuit. Either it could  
14 be dismissed based upon the permanent injunction or what we  
15 proposed in our motion to stay is that the Court exercise its  
16 inherent authority to simply stay the case pending the appeal  
17 of this language, which is up on appeal in the Fifth Circuit  
18 right now.

19           If that language, and if the injunction gets affirmed  
20 by the Fifth Circuit, then certainly the dismissal can happen  
21 once that affirmance happens and there's no harm, no foul, and  
22 no one's wasted any time.

23           If they're not, if it's overturned, then, obviously,  
24 the injunction would be vacated, presumably by the Fifth  
25 Circuit. And at some point, if the Court decides not to enter

1 a similar injunction that would likewise dispose of this case,  
2 then the case could proceed on the merits.

3           The issue we've identified both in our original  
4 motion and as we fleshed out in our -- as a matter of law in  
5 our amended motion to simply put a finer point on it is that  
6 the merits are now -- have been disposed of. This injunction  
7 ends this case, at least as far as we read it. It ends this  
8 case irrespective of the underlying merits of the lawsuit,  
9 which means that the lawsuit merits themselves have become moot  
10 and any opinion or any attempt to resolve it is obviously an  
11 advisory opinion by the Court.

12           So we really only see two ways that this could go  
13 right now without either gutting the injunction or  
14 circumventing it completely, which is to say that either the  
15 case should be dismissed based upon the permanent injunction or  
16 the case should be stayed based upon the permanent injunction.

17           Mr. Pomerantz or the debtors' brief suggests that,  
18 well, the injunction doesn't prevent hearing pending motions.  
19 But I would respectfully disagree with that. If you look at  
20 the language, "commencing, conducting, or continuing in any  
21 manner in any suit, action, or other proceeding against or  
22 affecting the debtor."

23           As 12(b)(6) hearing, I would imagine, was intended to  
24 fall under the umbrella of a proceeding. And us arguing a  
25 12(b)(6) motion would us be conducting and maybe even



1 continuing the suit because we're trying to protect the merits  
2 of the suit, which as I said are at this juncture already moot.

3 And so it comes down to I think a very simple  
4 question, which is what do we do at this juncture. Do we just  
5 simply dismiss the lawsuit in light of this permanent  
6 injunction or stay the lawsuit in light of this permanent  
7 injunction?

8 The debtor makes a lot of hay out of the fact that,  
9 well, there are special rules that apply when you're trying to  
10 stay a case pending appeal. But if you look at all of their  
11 case law, it has to do with different circumstances where an  
12 appeal -- where there's a matter on appeal that could  
13 substantially affect the resolution of the case, which here we  
14 think it actually could. But in those cases, those appeals  
15 would affect the resolution of the case on the merits; whereas,  
16 here, the question goes to whether or not a permanent  
17 injunction that really has stopped us all in our tracks.

18 As soon as we understood this injunction and its  
19 scope, we're the ones who reached out to the debtor's counsel  
20 and asked them on a meet-and-confer whether or not they would  
21 just agree to stay the matter. And we were a little bit  
22 surprised by their reaction when they first didn't think that  
23 this applied to our case, and we didn't understand how. And  
24 then they changed their mind, said it did apply to our case but  
25 they didn't think that we should stay the case. And they

1 didn't suggest let's just dismiss it based upon the permanent  
2 injunction.

3           So it kind of comes down to the same small -- same  
4 simple issue, Your Honor. There's this permanent injunction,  
5 and I don't think there's any way for us to get around it at  
6 this juncture.

7           THE COURT: Mr. Pomerantz:

8           MR. POMERANTZ: Yes, Your Honor.

9           I'm going to respond to several of the arguments Mr.  
10 Sbaiti made in his motion, which apparently he's abandoned  
11 because he only is focused on the injunction. And I'm also  
12 going to tell Your Honor, what our arguments are because  
13 despite Mr. Sbaiti's efforts, he's completely misquoted them.

14           So in the motion and the amended motion, the  
15 Plaintiffs make several arguments why this Court should stay  
16 the matter. First, they argue they're entitled to a stay  
17 because the exculpation provision in the plan prohibits them  
18 from proceeding against the Defendants in the action. And  
19 there are several problems with that argument.

20           First, Mr. Sbaiti and the Plaintiffs don't even  
21 attempt to meet the Fifth Circuit's standards for a stay  
22 pending appeal because, of course, they can't. Mr. Sbaiti's  
23 trying to sidestep the grounds for a stay pending appeal by  
24 arguing it doesn't apply just is incorrect.

25           They would have to show that there is a likelihood of

1 success on the merits, they would suffer irreparable harm, the  
2 debtor wouldn't suffer irreparable harm, and there is -- public  
3 interest supports a stay. They can't do any of them.

4 In fact, as Your Honor is well aware, Your Honor  
5 denied the actual appellants in that suit, in that order, the  
6 confirmation order, a stay pending appeal and that was denied  
7 by the district court and also denied by the Fifth Circuit  
8 Court of Appeals.

9 The Plaintiffs didn't object to the plan, they are  
10 not parties to the appeal, and they never sought a stay pending  
11 appeal. So they really can't explain why they as really  
12 strangers to the appeal are entitled to a stay of the  
13 effectiveness of the plan when the actual appellants to that  
14 order were denied a stay pending appeal up through the  
15 appellate ladder.

16 Second, notwithstanding Mr. Sbaiti's arguments in the  
17 motion, the exculpation provision is neither as broad nor does  
18 it affect all the parties that are subject to this litigation.  
19 There are three Defendants in the complaint. The only  
20 Defendant that is covered by the exculpation provision is the  
21 debtor. The exculpation provision does not apply HCF Advisors,  
22 and it does not apply to Highland CLO Funding.

23 Also, while the exculpation provision does apply to  
24 the debtor, it only exculpates the debtor from claims of  
25 negligence. The complaint raises a variety of causes of action

1 that have nothing to do with negligence and would not be  
2 covered by the exculpation provision.

3           But, Your Honor, the biggest problem with their  
4 argument that the exculpation provision supports a stay is that  
5 the exculpation -- the appeal of the exculpation provision has  
6 nothing to do with this case. Why? Because the Fifth Circuit  
7 appeal concerns whether the exculpation provision is  
8 appropriate for parties other than the debtor. The debtor is  
9 the only Defendant in this case that obtains the benefit of the  
10 exculpation.

11           And there is no dispute, there was no dispute at  
12 confirmation, there's no dispute in the case law, there's no  
13 dispute in Pacific Lumber, there's no dispute in the appeal  
14 that a plan can exculpate the debtor. So the Fifth Circuit  
15 appeal doesn't implicate the exculpation provision and cannot  
16 support a basis for a stay.

17           The next argument Mr. Sbaiti makes is the injunction  
18 provision, and the injunction provision is on appeal to the  
19 Fifth Circuit. But the aspect of the appeal of the injunction  
20 is not the provision that Mr. Sbaiti points to.

21           And, again, as with the exculpation provision, the  
22 same arguments about failure to obtain a stay, failure to be  
23 party to the appeals, and failure to object to the plan apply,  
24 as well. But as is the case with the exculpation provision,  
25 the resolution of the appeal of the injunction provision will

1 not affect this case in any way.

2           They point to the portion of the injunction that  
3 prohibits enjoined parties from directly or indirectly  
4 continuing, commencing, or conducting in any manner any suit or  
5 action proceeding against the debtor. They argue that they  
6 cannot proceed without violating the injunction because the  
7 injunction was intended to put all litigation against the  
8 debtor to an end.

9           But, of course, Your Honor, that is not true. That  
10 is not what the injunction is. The issue on appeal before the  
11 Fifth Circuit as it relates to the injunction is whether the  
12 injunction impermissibly enjoins parties from enforcing their  
13 rights with respect to post-effective date commercial  
14 relationships with the reorganized debtor. And, of course, we  
15 argue that it's appropriate, but it has nothing to do with the  
16 provision Mr. Sbaiti identified.

17           The appeal does not impact in any way whether a plan  
18 can enjoin prosecution of claims that arose prior to the  
19 effective date. And, of course, such a plan provision is  
20 completely appropriate and is customary. The plan provided the  
21 debtor as the plan provides all debtors with a fresh start and  
22 enjoins litigation against the debtor.

23           But importantly, Your Honor, that does not mean as  
24 Plaintiffs argue that any liability for pre-effective date  
25 conduct just goes away and that creditors are left without a

1 remedy to pursue claims against the debtor for pre-effective  
2 date conduct.

3           Rather, if they have a pre-petition claim in lieu of  
4 their litigation that's pending, they file a pre-petition claim  
5 against the estate and that matter is resolved in the claims  
6 objection procedure. Or, as in the case here, when they make  
7 an allegation that there is a post-petition claim, what do they  
8 do? They file a request for payment of an administrative  
9 claim, and this Court addresses the validity of the  
10 administration claim. The lawsuit pending in another  
11 jurisdiction stops, but the claim has to be resolved in the  
12 bankruptcy court.

13           The only conduct that the injunction really prohibits  
14 is them from proceeding with actions in other courts. It does  
15 not deny them a remedy. Accordingly, their argument that they  
16 cannot proceed with claims against the debtor because of the  
17 injunction provision just lacks any merit and can't form the  
18 basis for a stay.

19           Plaintiffs' next argument in their briefing is that  
20 if the Court refuses to stay the complaint, they will file a  
21 motion to withdraw the reference of this matter to the district  
22 court. Your Honor, this is the biggest head-scratcher of them  
23 all given how this complaint ended up before Your Honor. This  
24 exact issue and Plaintiffs' arguments as to why the reference  
25 should be withdrawn have already been fully briefed and decided



1 by the district court.

2 As Your Honor may recall, the Plaintiff filed this  
3 action in the district court, conveniently failing to include  
4 the bankruptcy case as a related case or mentioning that the  
5 bankruptcy courts have related jurisdiction in the filings.  
6 Your Honor may have had occasion to review the underlying  
7 complaint when the debtor brought a motion for contempt against  
8 counsel for Plaintiffs for pursuing a claim against Mr. Seery  
9 in violation of Your Honor's January 9th, 2020 and July 16th,  
10 2020 orders.

11 Your Honor issued an order finding counsel and  
12 various parties in contempt which order is, of course, subject  
13 to appeal. At the time we were litigating the contempt motion,  
14 we filed two motions in district court. The first was a motion  
15 to enforce the reference and have the district court send that  
16 complaint to Your Honor. And that motion to enforce the  
17 reference is now on Your Honor's docket at Number 22 and 23.

18 The second was the motion to dismiss which is before  
19 Your Honor today. Plaintiffs oppose the motion to enforce the  
20 reference arguing that mandatory withdrawal was required  
21 because the matter involved consideration of non-bankruptcy  
22 federal law, specifically federal securities laws and the  
23 Investment Advisors' Act.

24 Plaintiffs further argue to the district court why  
25 would you refer the case to the bankruptcy court if it's only

1 going to end up back in the district court upon mandatory  
2 withdrawal of the reference. They argue to the district court  
3 that would be a complete waste of time.

4 We filed our reply at Docket Number 42 explaining to  
5 the district court why mandatory withdrawal of the reference  
6 did not apply and why this case should be referred to Your  
7 Honor. And what did the district court subsequently do? It  
8 entered an order referring this action to Your Honor which is  
9 why we are here today.

10 Plaintiffs now flout the district court's order of  
11 reference by telling the Court that if the Court does not stay  
12 the matter, they will file a motion to withdraw the reference  
13 before Your Honor, and they attach virtually identical pleading  
14 that they filed in opposition to our motion to enforce the  
15 reference.

16 Plaintiffs did not disclose in their amended motion  
17 that there was a fully-briefed motion to enforce the reference  
18 before the district court. Plaintiffs' argument is  
19 disingenuous and designed to mislead the Court.

20 The district court has only agreed that mandatory  
21 withdrawal of the reference does not apply and this case  
22 belongs in Your Honor. And while we cannot stop the Plaintiffs  
23 from filing any motion before this Court, we want to put them  
24 on notice that if they do file a motion for withdrawal of the  
25 reference in light of the facts as I just stated them, we will

1 seek sanctions.

2 In any event, Your Honor, the fact that they may file  
3 a motion for withdrawal of the reference at some point in the  
4 future is not grounds to stay the matter.

5 Lastly, Your Honor, Plaintiffs argued in the opening  
6 that Highland's position today in opposing the motion to stay  
7 is inconsistent with positions Highland has taken in two other  
8 lawsuits commenced by the Sbaiti firm. Like all of their other  
9 arguments, they misrepresent the facts and are frivolous.

10 The Sbaiti firm filed a complaint on behalf of the  
11 DAF in the district court arguing that Highland mismanaged  
12 (audio drop). That complaint followed in the heels of an  
13 almost identical complaint filed by Dugaboy asserting the same  
14 claims.

15 And Your Honor may recall questioning Mr. Sbaiti at a  
16 hearing in June how Dugaboy could pursue such a claim in the  
17 district court if Dugaboy had a pending proof of administrative  
18 claim on file in the bankruptcy case. Well, soon after that  
19 hearing, Your Honor, the Dugaboy complaint was dismissed, and a  
20 few days later the DAF complaint was filed. That complaint has  
21 never been served on Highland.

22 The second lawsuit is also a lawsuit filed by the  
23 Sbaiti firm on behalf of an entity called PCMG in the district  
24 court. And PCMG previously held less than five one-hundredths  
25 of a percent interest in a certain fund managed by highland.

1 The lawsuit alleges that Highland acted improperly to sell  
2 certain assets of the fund, thereby damaging PCMG. That  
3 complaint has also never been served on Highland.

4 The Plaintiffs sought a stay of those matters before  
5 Highland could file a response, and the court -- the district  
6 court's entered stays in those matters. And Highland has filed  
7 motions for reconsideration and the motions to dismiss because  
8 they violate the injunction.

9 But, importantly, Your Honor, if you read the  
10 motions, Highland does not argue that Plaintiffs do not have a  
11 remedy for the alleged wrongs they say they suffer. Rather,  
12 Highland's argument is that any claims alleged in those  
13 lawsuits, just like any claims alleged in the lawsuit before  
14 Your Honor today, must proceed in bankruptcy court as part of  
15 the claims objection process. That's where they will have  
16 their day in court. The lawsuits don't go away. The  
17 injunction prevents them from continuing on in district court.

18 Accordingly, Highland is being totally consistent in  
19 all matters, and the litigations may not proceed there but must  
20 proceed before Your Honor. And, of course, none of these three  
21 matters are implicated by the Fifth Circuit appeal.

22 Your Honor, the amended motion was procedurally  
23 improper and is substantively without merit. And for all these  
24 reasons, we request that the Court deny the stay motion and  
25 proceed with the hearing on the motion to dismiss.

1 Thank you, Your Honor.

2 THE COURT: All right.

3 Mr. Sbaiti, you get the last word.

4 MR. SBAITI: Thank you, Your Honor.

5 Your Honor, the administrative claim process that was  
6 described as being the way that these claims were supposed to  
7 proceed, by the language of the order that we read, does not  
8 allow for these claims. Those claims are limited to a specific  
9 category of claims that don't include the claims that are  
10 alleged in this lawsuit.

11 And in any event, this lawsuit wasn't filed as an  
12 administrative claim. So if that's the case and it needs to be  
13 refiled or reasserted as an administrative claim, then I think  
14 that's a subject for another day. All I know is that we have  
15 this injunction right now that either should stay this case  
16 pending the appeal, which I'll address the issue on appeal in a  
17 moment, or it should be dismissed, perhaps without prejudice so  
18 that it can be refiled properly as an administrative claim if  
19 that's what's supposed to happen, because I guess this converts  
20 the matter.

21 The appeal, the subject of the appeal as to the  
22 injunction, Your Honor, the appeal actually encompasses many of  
23 the issues that we're talking about in this case. Now Mr.  
24 Pomerantz tries to narrow the scope of what's up on appeal, and  
25 that may indeed be the argument that they're going to present

1 to the Fifth Circuit or that they've presented to the Fifth  
2 Circuit.

3 But the actual issue up on appeal is the  
4 enforceability and validity of the order for a variety of  
5 reasons which includes the provision that we're talking about  
6 and the enforceability of the provision that we're talking  
7 about because it gets rid of particular claims. And I guess  
8 the argument back is, no, it doesn't because there's now an  
9 alternative means of going there.

10 Mr. Pomerantz says that we shouldn't have proffered a  
11 motion to enforce the reference. That proffer, however, was  
12 because Judge Boyle's reference to this Court didn't deal with  
13 our motion to -- our cross-motion to withdraw the reference.  
14 All it dealt with was their motion to enforce the reference as  
15 a -- to enforce the standing order in the district court. And  
16 that's all she ordered was she cited the standing order and the  
17 statutes, I think it's 157(a), and that's really all it did.

18 So it left open the question of whether she wanted  
19 Your Honor to deal with the withdrawal of the reference  
20 specifically as to the 12(b)(6) issue in the first instance.  
21 It didn't resolve the question. It doesn't purport to resolve  
22 that question. And it's not unheard of for the district court  
23 then to send the matter to the bankruptcy court and then to  
24 piecemeal which proceedings the withdrawal of the reference is  
25 applicable to and then all the other proceedings would stay



1 with Your Honor or with the bankruptcy court.

2           So we weren't flouting the district court's order,  
3 and we certainly weren't flouting any of the previous orders.  
4 And the threat of a sanction for simply exercising our rights  
5 in due course is not well taken.

6           Now Mr. Pomerantz says, well, the DAF and CLO Holdco  
7 are not parties to the appeal. I don't think that's relevant  
8 because if the provision is struck by the Fifth Circuit, it's  
9 not only struck for the appellants, it's struck as to all.  
10 It's either valid or it's invalid. And even if it's declared  
11 to be invalid only as to the appellants, it's not suddenly  
12 valid as to everyone else who didn't appeal. That's not  
13 generally how these appeals have worked.

14           If the Court doesn't stay this matter, Your Honor,  
15 and doesn't dismiss it, we still maintain, Your Honor, that as  
16 it stands today, the question on the merits have been mooted  
17 and we cannot proceed. I think what Mr. Pomerantz is hoping  
18 for or the debtor is hoping for is a provision where our hands  
19 are potentially tied to argue the motion.

20           And if the Court tells us they're not, then we'll  
21 certainly argue the 12(b)(6). But what I don't want to do is  
22 argue a 12(b)(6) motion that on its face appears to violate the  
23 permanent injunction and then be held in contempt for violating  
24 that injunction.

25           And so that's why we've asked for the Court to either

1 stay the matter under its inherent jurisdiction or to -- if  
2 you're going to -- if it's not going to be stayed, then we  
3 believe it has to be dismissed according to the permanent  
4 injunction as it stands right now.

5 THE COURT: All right.

6 The motion to stay is denied. The amended motion to  
7 stay is likewise denied. This is an odd argument. I guess one  
8 might say the traditional four-factor test for a stay of a  
9 proceeding has really not been the subject of the argument here  
10 for a stay.

11 So suffice it to say the four-prong test for a stay,  
12 you know, hasn't been met here. There hasn't been a showing of  
13 substantial likelihood of success on the merits or irreparable  
14 injury if the stay's not granted or a stay will not  
15 substantially harm others or the stay would serve a public  
16 interest.

17 But going on to the arguments that were focused on by  
18 movant, I just don't think that you have shown that, you know,  
19 either the exculpation clause or the injunction provisions of  
20 the plan somehow tie your hands in arguing the 12(b)(6) motion,  
21 defending against the 12(b)(6) motion today or I just think  
22 that your arguments reflect, frankly, a misunderstanding of how  
23 the injunction language and exculpation language applies here.

24 So the motion for stay is denied, and I will ask Mr.  
25 Pomerantz to submit an order reflecting the Court's ruling.

1           So it looks like we have another procedural matter,  
2 Mr. Sbaiti. You filed a motion to strike reply appendix of the  
3 Plaintiffs quite a while back. So did you want to present  
4 that?

5           MR. SBAITI: Yes, Your Honor. I think it's a very  
6 simple procedural issue.

7           Generally, a party that files a 12(b)(6) is limited  
8 to the four corners of the complaint. And if there's a  
9 contract incorporated or a document incorporated as an  
10 intrinsic part of the complaint, you know, that's usually  
11 considered under the 12(b)(6) motion.

12           What the Defendants did, what the debtor here did is  
13 they filed a bunch of evidence in their 12(b)(6), essentially  
14 attempting to argue it as a summary judgment. We raised that  
15 in our response. So as part of our response, we objected to  
16 all the evidence. But then on the reply, they filed a bunch  
17 more evidence both without leave and improperly, basically  
18 sandbagged us.

19           And so we raised two points for striking that  
20 evidence. One was akin to the first argument, which is it's  
21 not an evidentiary hearing. It's not an evidentiary process in  
22 the first instance. A 12(b)(6) motion has to assume that the  
23 facts pled are true, and then the question is whether they  
24 state a claim.

25           And, secondly, adding them to the reply is especially

1 egregious because the reply is the last word. And we didn't  
2 have an opportunity to respond, and we also don't think it's  
3 relevant nor should we have to respond to a whole bunch of  
4 extra evidence that was attached.

5 That's essentially the basis of our motion, Your  
6 Honor.

7 MR. POMERANTZ: Your Honor, the simple answer to the  
8 issue is we filed the reply of the appendix in connection with  
9 the motion to enforce the reference. We didn't file it in  
10 connection with the motion to dismiss. The motion to enforce  
11 the reference is moot. So what Mr. Sbaiti, his whole argument  
12 doesn't make any sense.

13 As a substantive matter, just there wasn't any  
14 evidence. It was pointing to court pleadings, orders, and  
15 stuff. So it's irrelevant. I don't know why it's still on the  
16 docket. It shouldn't be on the docket since it related to the  
17 motion to enforce the reference.

18 THE COURT: All right. Mr. Sbaiti, did you just  
19 simply --

20 MR. SBAITI: Your Honor, much of that evidence was --

21 THE COURT: -- misunderstand or what?

22 MR. SBAITI: I think we might have because it was  
23 filed as a separate item, and it may have been miscalendared or  
24 misapplied on our system. But the way it was presented to us  
25 when we got it was it appeared to be evidence in support of,

1 well, I guess both, but certainly evidence that was averted to  
2 in the reply.

3 But if they're saying that the Court's not going to  
4 consider it, then that moots the motion and I think we can move  
5 on.

6 MR. POMERANTZ: Yes, Your Honor. I had nothing to do  
7 with his motion. I guess there was another mistake on their  
8 end. I guess that stuff happens occasionally.

9 THE COURT: Okay. All right. So I'll deny it as  
10 based on a mistake that's been acknowledged here. And so with  
11 that, let's have an order cleaning that up, as well, Mr.  
12 Pomerantz, please.

13 With that, we'll move on to the Defendants' motion to  
14 dismiss complaint. I think, Mr. Pomerantz, you said Mr. Morris  
15 will be making this argument?

16 MR. POMERANTZ: That is correct, Your Honor.

17 THE COURT: All right.

18 Mr. Morris, I'll hear your argument.

19 MR. MORRIS: Good morning, Your Honor. John Morris  
20 for Pachulski Stang Ziehl & Jones for the reorganized debtor.  
21 Can you hear me okay?

22 THE COURT: I can. Thank you.

23 MR. MORRIS: Okay.

24 Your Honor, this is a bit like Groundhog's Day. I  
25 believe that we're going to spend the next half hour or an hour

1 discussing the very issues that were before the Court earlier  
2 this year on the HarbourVest 9019 motion.

3           As the Court will recall from the June 8 hearing,  
4 there is a complaint that's been filed ostensibly by the DAF  
5 and CLO Holdco. As Your Honor will recall, the testimony  
6 established that Mark Patrick had just been installed as the  
7 trustee, had no knowledge of the prior events, and Mr. Dondero  
8 and Mr. Sbaiti spent quite some time together formulating this  
9 particular complaint that is nothing less than a collateral  
10 attack on the Court's prior order.

11           I'd like to, if I can, just walk through a PowerPoint  
12 presentation to try to make the debtor's position quite clear,  
13 if I may.

14           THE COURT: You may.

15           MR. MORRIS: And I would ask my assistant, Ms. Canty  
16 (phonetic), to put up the first slide.

17           Your Honor, you'll recall that last December, the  
18 debtor filed its motion under Rule 9019 for court approval of a  
19 settlement. The debtor was completely and utterly transparent  
20 in what the terms of the settlement were.

21           Very briefly, as set forth in Appendix 2 or Exhibit 2  
22 which was the motion itself, in Paragraph 32, Your Honor, the  
23 debtor set forth the terms of the transaction for which it was  
24 seeking approval. Those terms included in the very first  
25 bullet point a statement that HarbourVest shall transfer its



1 entire interest in CLOF to an entity to be designated by the  
2 debtor.

3           And that's an important point that we'll talk about  
4 in a number of different contexts, Your Honor. The debtor made  
5 it very clear at the very first moment of this matter that it  
6 was not going to acquire the asset but the asset was going to  
7 be transferred to an entity to be designated by the debtor.  
8 The debtor's motion filed last December clearly stated the  
9 value of the interest that it would be acquiring in return.  
10 That was also set forth in Paragraph 32 in a footnote.

11           It didn't say that it was the fair market value. It  
12 said the method of valuation was the net asset value and gave a  
13 valuation date of December 1st so that all parties in interest  
14 who received the motion understood the economics of the deal.  
15 And the deal that the debtor was asking the Court to approve  
16 was one whereby HarbourVest would receive certain claims and in  
17 exchange for those claims, they were going to transfer their  
18 interest in CLO -- HCLOF.

19           The debtor also filed on the docket for all to see a  
20 copy of the settlement agreement. The settlement agreement  
21 sets forth the terms of the deal, including again the statement  
22 that HarbourVest "will transfer all of its rights, title, and  
23 interest in HCLOF." It actually says to an affiliate or an  
24 entity to be designated by the debtor. And the transfer  
25 agreement itself was also put on the docket.

1           So that's where things stood just before Christmas.  
2 I know that there's some due process and other type arguments  
3 that are in the Plaintiffs' opposition to the motion. But, of  
4 course, the undisputed facts are that the debtor timely filed  
5 the motion. The time period was consistent with all applicable  
6 rules. Nobody ever asked the debtor for an extension of time.  
7 Nobody ever filed a motion for an extension of time. And so  
8 those due process arguments I think carry no weight at all.

9           So the debtor filed the motion. And if we can go to  
10 the next slide, we see what the responses were, and there were  
11 several. All of the responses, the only responses were  
12 objections to the motion filed by Mr. Dondero and his certain  
13 of his affiliated entities.

14           Mr. Dondero's objection can be summarized as follows.  
15 He made the following observations and asserted the following  
16 objections to the proposed settlement. The first thing he said  
17 is that the settlement far exceeds the bounds of  
18 reasonableness. Now, of course, one cannot make a  
19 determination of reasonableness without having an understanding  
20 of value. The debtor was giving something and it was getting  
21 something.

22           And so Mr. Dondero understood that the issue of value  
23 was front and center. If there was any mistake about it, he  
24 also noted that he understood that as part of the settlement  
25 and, again, I've written this incorrectly, HarbourVest will

1 transfer its entire interest in HCLOF to the debtor. That is  
2 not what Mr. Dondero understood. In fact, Mr. Dondero  
3 understood that it would transfer its entire interest in HCLOF  
4 "to an entity to be designated by the debtor," again, making it  
5 clear that he knew exactly what the debtor was doing here. And  
6 that can be found at Appendix 4 in Footnote 3 on Page 1 if you  
7 want the exact quote from Mr. Dondero's pleading.

8           In the same footnote, he also specifically  
9 acknowledges that he understood the valuation. He understood  
10 the method valuation. He understood the valuation date of  
11 December 1st. And he urged the Court in his pleading to  
12 scrutinize the settlement to make clear that the available  
13 value of the investment should be realized by the debtor's  
14 estate.

15           And this is such a critical point, Your Honor. His  
16 concern was that by placing the value in an entity other than  
17 the debtor itself, that the Court wouldn't have jurisdiction  
18 over that asset. That was his concern. So not only did he  
19 understand that the asset was going to be transferred to an  
20 affiliate, he wanted to make sure that this Court had  
21 jurisdiction over the asset.

22           And, of course, Mr. Seery in his testimony and  
23 otherwise, we provided the Court with all the comfort it needed  
24 to know that even though it was being assigned to a special-  
25 purpose vehicle wholly-owned by the debtor, it would

1 nevertheless be subject to the Court's jurisdiction.

2 Mr. Dondero's trusts also filed an objection if we  
3 can go to the next slide.

4 Dugaboy and Get Good represented by Douglas Draper  
5 made the following observations and asserted the following  
6 objections to the HarbourVest Settlement. They, too, made  
7 clear that they understood that the asset was going to be  
8 transferred to an entity designated by the debtor. They, too,  
9 acknowledge that they understood that the debtor was valuing  
10 the asset at approximately \$22 million as of December 1st. And  
11 their objection was that the Court couldn't evaluate the  
12 settlement without knowing how the asset was valued, without  
13 knowing whether the debtor could acquire the asset, very  
14 critical point.

15 These are the points that are made in the complaint.  
16 These are the exact same points that are made in the complaint.  
17 And also the Court couldn't evaluate the settlement unless they  
18 understood that the value would be inure to the benefit of the  
19 debtor's estate, again, mimicking Mr. Dondero's concern that by  
20 placing the asset in an affiliate of the debtor, that it might  
21 not be subject to the Court's jurisdiction.

22 Finally, and most importantly, if we can go to the  
23 next slide. The Plaintiff, CLO Holdco, filed an objection to  
24 the 9019 motion. And this is just so critical. And this is  
25 the Groundhog Day aspect that I specifically speak of. CLO

1 Holdco's objection was based solely on its assertion that it  
2 had a superior right to the opportunity to acquire the asset  
3 that was being transferred by HarbourVest. It only made one  
4 argument in support of its contention that it had a superior  
5 right, but that argument was specifically premised on the  
6 membership agreement, Section 6.1 and 6.2 of the membership  
7 agreement.

8 CLO Holdco, the Plaintiff in the underlying action,  
9 argued to this Court that HarbourVest had no authority to  
10 transfer the asset without complying with the right of first  
11 refusal that would give CLO Holdco the opportunity to take the  
12 asset for itself. That's what this Court was told. CLO Holdco  
13 didn't make this argument fleetingly. They provided an  
14 extraordinarily detailed analysis of Sections 6.1 and 6.2 of  
15 the membership agreement and concluded "that HarbourVest must  
16 effectuate the right of first refusal before it can transfer  
17 its interest in HCLOF. That was the objection. Objections  
18 have consequences, as Your Honor knows.

19 If we can go to the next slide.

20 By filing an objection, CLO Holdco and the trusts and  
21 Mr. Dondero became participants in the litigation.  
22 Notwithstanding the Plaintiffs' arguments to the contrary, when  
23 they file the objections, they participate in what's called a  
24 contested matter. And in a contested matter, they had every  
25 right to take all discovery on any issue that was related to

1 the 9019 motion, including the transfer, the disposition of the  
2 asset to an affiliate of the debtor, the valuation of the asset  
3 that's being received, the merits of the settlement itself, the  
4 causes of action, whether, you know, what communications that  
5 were, the negotiations, what did Mr. Seery and Mr. Pugatch  
6 discuss? Right?

7           They could have taken any discovery they wanted. And  
8 they did avail themselves of discovery, in fact. They did -- I  
9 don't know why they did what they did, but they chose to take  
10 one deposition, and that was Mr. Pugatch, okay.

11           His deposition transcript, I think is at Exhibit 7,  
12 or Appendix Number 7, and it was a long deposition. It really  
13 was. And they asked Mr. Pugatch at the deposition if he knew  
14 what the value of the asset that was being transferred was.  
15 And he said \$22.5 million. So it wasn't just Mr. Seery or the  
16 debtor who was subscribing to this valuation. The party on the  
17 other side of an arm's length negotiation was subscribing to  
18 the exact same valuation.

19           The Plaintiffs could have taken whatever discovery  
20 they wanted. This is a full and fair opportunity to  
21 participate in the litigation. We proceeded to trial. Before  
22 we got there, actually, the debtor filed its response to CLO  
23 Holdco's objection and proffered its own very detailed and  
24 apparently very persuasive analysis that CLO Holdco's objection  
25 was without merit, that CLO Holdco had no right of first



1 refusal under the facts and circumstances as they existed, and  
2 with Grant Scott, Mr. Dondero's childhood friend at the helm,  
3 we got to Court for the contested hearing on the debtor's 9019  
4 motion, and CLO Holdco withdrew their objection.

5           And I've put up on the screen just an excerpt of the  
6 transcript because, you know, when we talk about whether or *res*  
7 *judicata* should apply, because was there a hearing on the  
8 merits? Was there a decision on the merits? Just look at the  
9 words of CLO Holdco's lawyer. "CLO Holdco has had an  
10 opportunity to review the reply briefing and after doing so has  
11 gone back and scrubbed the HCLOF corporate documents based on  
12 our analysis of Guernsey law."

13           And some of the arguments of counsel in those  
14 pleadings and our review of the appropriate documents, counsel  
15 obtained the authority from Mr. Scott to withdraw the CLO  
16 Holdco objection based on the interpretation of the member  
17 agreement. We were grateful for that and the Court  
18 specifically said in response, "That eliminates one of the  
19 major arguments that we had anticipated this morning."

20           Apparently, the Plaintiffs believe that those events  
21 have no meaning and that this Court's reliance on CLO Holdco's  
22 substantive withdrawal of its objection has no meaning. I  
23 think they're wrong, and we'll get to that in a moment.

24           We proceeded with the hearing. Mr. Seery and  
25 Mr. Pugatch testified at length. If you look at Footnote 3,

1 you'll see Mr. Seery testified for almost 70 pages of  
2 testimony. Mr. Pugatch testified for almost 45 pages of  
3 testimony. His testimony was exhaustive. And, again, any of  
4 the objecting parties had the right to ask whatever questions  
5 they want.

6 But I do want to just note a few things that aren't  
7 up on the screen right now. If you go to Appendix 9, Your  
8 Honor, which is the transcript of the hearing, at Page 13, you  
9 will see that the very first thing I discussed in my opening  
10 statement was the economics and how with a valuation of \$22.5  
11 million this deal made sense for the debtor.

12 You will see from Pages 30 to 42 there is extensive  
13 testimony from Mr. Seery about the amount and the value of the  
14 asset. But the most important part of Mr. Seery's testimony is  
15 that he explains how it came to be that HarbourVest agreed to  
16 transfer its interest in HCLOF to an affiliate of the debtor.  
17 And that came about, not because Mr. Seery or the debtor was  
18 initially at all interested in doing this. The whole idea  
19 originated with HarbourVest.

20 They wanted to extract themselves from the Highland  
21 platform. They wanted to give this piece up. So there's no  
22 conspiracy going on here. The unrebutted testimony that all of  
23 the objecting parties had an opportunity to challenge was that  
24 the whole idea originated with Mr. Pugatch and with  
25 HarbourVest. I think that's an important point to take into

1 account.

2           And finally, again, from the hearing, if you look at  
3 at Appendix 9, you'd also find that Mr. Pugatch, again,  
4 testified, as he had in his deposition, as to the value of the  
5 interest being transferred. So we completed the testimony. We  
6 rested our case having had a full and fair opportunity to  
7 contest the motion. The objecting parties rested as well. And  
8 we got to the point where we had to prepare the notice, and we  
9 were discussing that at the hearing, if we can go to the next  
10 slide.

11           And it's very important, because again, this was all  
12 done transparently, and it was all done on the record. And  
13 after the close of evidence, I addressed the order that was  
14 going to be prepared. I specifically said that I wanted to  
15 make clear that we were going to include a provision, "that  
16 specifically authorizes the debtor to engage in, to receive  
17 HarbourVest the asset, you know, the HCLOF interest," right. I  
18 wanted everybody to know that was what was going to happen, and  
19 then I said, "The objection has been withdrawn." I think the  
20 evidence is what it is and we want to make sure that nobody  
21 thinks they're going to go to a different court somehow to  
22 challenge the transfer. But yet, that is exactly what the  
23 complaint seeks to do.

24           Having put everybody on notice as to where we were  
25 going, as to what the evidence showed, the debtor drafted and

1 the Court adopted an order, and the order says, among other  
2 things, that HarbourVest was authorized to transfer its  
3 interest to the debtor. Actually, it says, "to a wholly owned  
4 and controlled subsidiary of the debtor," pursuant to the  
5 transfer agreement, "without the need to obtain the consent of  
6 any party or to offer such interest first to any other investor  
7 in HCLOF." So the Court heard the 9019 motion pursuant to a  
8 Bankruptcy Rule and entered an order that was unambiguous and  
9 that the Plaintiffs did not appeal from.

10 We can go to the next slide.

11 At a very high level, Your Honor, it is just crystal  
12 clear that the complaint is just inextricably intertwined with  
13 the 9019 proceedings and the order itself. I think Mr. Sbaiti  
14 would agree with me that but for the order that approved the  
15 transfer of the asset and the testimony about the value of that  
16 asset, they have no claims.

17 Every single claim is predicated on what happened in  
18 the 9019 hearing. Every single claim is predicated on the  
19 Court's order approving the transfer of the asset and the  
20 testimony and evidence that was adduced in relation to that  
21 asset.

22 There were really only two issues that the Court -- I  
23 mean, if you want to think about it at its most simplistic  
24 level, the Court was being asked to assess, is it fair, is it  
25 reasonable, is it legally permissible for the debtor to give

1 something. In this case, allowed claims and releases, and to  
2 get something in return. In this case, HarbourVest's interest  
3 in HCLOF and releases in return. And that is really the  
4 gravamen of the complaint.

5           The complaint is based whether it's breach of  
6 fiduciary duty or RICO or breach of contract or tortious  
7 interference, whatever the claim is, none of them exist if the  
8 debtor doesn't get this. They just don't exist. And that is  
9 why the complaint and the proceeding are inextricably  
10 intertwined. And if you just take a look at just one paragraph  
11 of the pleading, it says at the core of this lawsuit is the  
12 fact that HCM, that's the then debtor, purchased the  
13 HarbourVest interests in HCLOF for \$22.5 million knowing that  
14 they were worth far more than that. There's not a cause of  
15 action that exists in the complaint that isn't dependent on  
16 Paragraph 36.

17           So if we can go to the next slide with that  
18 background, I'd like to argue why under 12(b), the complaint  
19 should be dismissed because the claim should be barred under  
20 the doctrine of *res judicata*. Luckily, Your Honor, there is at  
21 least one area of agreement between the parties here, and that  
22 is the purpose of the doctrine and the elements that have to be  
23 satisfied in order to meet the burden of proof necessary to  
24 have the claims barred. And in Footnote 1, you can -- I've  
25 tried to just be helpful to the Court to show that we may not

1 cite to the exact same cases, but the parties agree that the  
2 doctrine is intended to foreclose the re-litigation of claims  
3 that were or could have been raised in a prior action and that  
4 there's four elements that have to be satisfied for the  
5 doctrine to apply.

6           The parties have to be either identical or at least  
7 in privity, the judgment in the prior action had to have been  
8 rendered by a court of competent jurisdiction. Number three,  
9 the prior action had to have been concluded by a judgment on  
10 the merits. And the last one is that the same claim or cause  
11 of action was involved in both suits. So I just want to spend  
12 a few minutes now, Your Honor, going through those four  
13 elements to show the Court how easily the reorganized debtor  
14 meets this standard.

15           If we can go to the next slide, I can take care of  
16 the first two elements very quickly.

17           The first element, the debtor asserted that the  
18 Plaintiffs were parties or in privity with parties to the prior  
19 proceeding. That's at Paragraph 17 of the motion to dismiss.  
20 The debtor relies on the deposition testimony of Grant Scott,  
21 who was then the trustee of the DAF.

22           CLO Holdco is a wholly-owned subsidiary of the DAF,  
23 or wholly controlled, in any event, and Mr. Scott's testimony  
24 was that he was the only director and there were no employees  
25 of either entity. So we, in our motion, put forth evidence to



1 establish the first element, and I don't believe, maybe I've  
2 missed it. I don't believe that the Plaintiffs have contested  
3 that element. If they have, I think Mr. Scott's testimony will  
4 carry the day, in any event.

5           The second element as to whether or not a court of  
6 competent jurisdiction is the entity or the court that rendered  
7 the ruling. Of course, that's been met, too. The Plaintiffs,  
8 in their opposition to the motion to dismiss, suggested that  
9 the bankruptcy court would have lacked jurisdiction if their  
10 cross motion to withdraw the reference was granted. They said  
11 if the district court decides that mandatory withdrawal  
12 applies, then it cannot find that the bankruptcy courts already  
13 entered final judgment was rendered on Plaintiffs' causes of  
14 action and had jurisdiction to do so. I think that's just a  
15 clear misstatement of the law.

16           But in any event, Your Honor, at this point, I  
17 believe it's irrelevant because the district court, in fact,  
18 sent the case back to Your Honor and back to this Court. And  
19 so, at the end of the day, Plaintiffs' argument doesn't hold  
20 water because of the district court's ruling, which can be  
21 found -- the order of reference can be found at Docket  
22 Number 64. And so I think that easily takes care of the second  
23 prong.

24           The third prong is whether -- if we can go to the  
25 next slide -- the prior proceeding resulted in a judgment on

1 the merits. And this is really the critical point, Your Honor.  
2 As the Court knows, the whole doctrine of *res judicata* is  
3 designed to prevent, as the parties agree, the re-litigation of  
4 claims. Stated another way, it's to bring finale. It's to  
5 make sure that the Court doesn't hear the same claims and the  
6 same issues that either were brought or that could have been  
7 brought in a prior proceeding. And so, we believe that we  
8 easily meet the standards set forth in the third prong. The  
9 9019 order necessarily determined that the *quid pro quo* that I  
10 described earlier was fair, reasonable, and legally  
11 permissible.

12           Notwithstanding their assertions to the contrary, the  
13 Plaintiffs are most definitely seeking to unwind at least one  
14 half of the Court's order by belatedly claiming that they are  
15 entitled to the benefit of the bargain while leaving Highland  
16 burdened, frankly, with the claims that HarbourVest got as part  
17 of the deal. I will tell you, Your Honor, and this is  
18 argument, the debtor would never have asked for, and I don't  
19 believe that the Court would ever have granted, the 9019 motion  
20 if they thought that there was a risk in the future that  
21 Highland wouldn't get the benefit of the bargain and it was  
22 incumbent upon CLO Holdco and the DAF, and frankly, any party  
23 in interest, to stand up and be counted and tell the Court and  
24 the debtor, why the debtor was not entitled to do this deal and  
25 CLO Holdco did that. They actually did.

1           They stood up and they filed an objection and they  
2 said we have a superior right to this asset in the form of a  
3 right of first refusal. They wound up folding in the face of  
4 persuasive argument, and I respect the lawyer who did that. I  
5 just do. But that was the time to speak up, and that's why it  
6 is on the merits because that is exactly what *res judicata* is  
7 intended to do. It's intended to have everybody put your cards  
8 on the table. You don't put one card on the table and say, I'm  
9 going to challenge this under 6.2 of the members agreement, but  
10 I'm not going to tell you that I also think you owe me a  
11 fiduciary duty under the Advisors Act or as the control party  
12 or under any other theory that they had. They can't do that.  
13 That's exactly what the problem is here.

14           If we can go to the next slide. Is it a judgment on  
15 the merits? The debtor and the Court relied on CLO Holdco's  
16 representation that it was withdrawing its argument, its claim,  
17 its contention, its assertion that it had a superior right to  
18 obtain the HarbourVest interest in HCLOF. Again, they did so  
19 not whimsically, not because Mr. Kane was going to be out of  
20 town and he couldn't make the hearing. He did it after, and I  
21 don't think this matters frankly, but I think it's worth noting  
22 that he did it after an extremely careful analysis. I would  
23 tell you, Your Honor, that -- well, I would argue, Your Honor,  
24 that even if Mr. Kane at CLO Holdco had never filed an  
25 objection, if they'd never filed -- if they'd gotten notice

1 that this was happening and they sat silently, that would have  
2 been enough for *res judicata* because the issue before the Court  
3 was whether it was legally permissible for the debtor to  
4 acquire this asset.

5           And if they had an obligation, if they owed a duty to  
6 another party, it wouldn't have been legally permissible. And  
7 if somebody believed that it wasn't legally permissible because  
8 a duty was owed to them, they had an obligation to speak up.  
9 And so I think it's very important, particularly for the  
10 collateral estoppel argument that I'll make in a moment, that  
11 CLO Holdco did in fact file an objection. It was based on the  
12 breach of contract claim that's in their complaint. It's the  
13 exact same claim. And they withdrew it. I think it's very,  
14 very important. I think it highlights why *res judicata*  
15 applies. I think it is the linchpin of the collateral estoppel  
16 argument.

17           But at the end of the day, I think if they say  
18 nothing, they should be estopped or precluded under *res*  
19 *judicata* from now asserting -- it would be like -- I was  
20 thinking about this earlier, Your Honor. If you'll remember  
21 earlier this year, Mr. Dondero and his entities have kind of a  
22 habit of withdrawing objections at the last minute. We had a  
23 couple of sale hearings earlier this year. And the issue was  
24 valuation, you know, and the process, and could the debtor meet  
25 its burden of proving that the sale outside of the ordinary

1 course of business was in the debtor's best interest. And they  
2 sold that restaurant. And Mr. Dondero objected. And at the  
3 last second, they withdrew the objection. Did they sue  
4 tomorrow? Does Your Honor really think that they could bring a  
5 lawsuit tomorrow and say they just found a document or theory  
6 on which the debtor had an obligation to give them a right of  
7 first refusal, even though we've already closed on the  
8 transaction, even though they were given notice of the  
9 transaction, even though they filed an objection to the  
10 transaction, even though they withdrew the objection? Would  
11 the Court tolerate for one second a new pleading tomorrow from  
12 Mr. Dondero that the debtor actually had a fiduciary duty to  
13 give him a right of first refusal to buy that asset under  
14 whatever theory, just because he pleads it and the Court has to  
15 accept as true the allegations in the complaint? I think not.  
16 And I think it's worth thinking about that to highlight just  
17 how -- just how wrong this is.

18 Continuing on. You know, the Plaintiffs in  
19 opposition say it can't be a trial on the merits because we  
20 weren't parties. Of course they were parties. Again, they  
21 filed an objection. They were the parties to the contested  
22 matter, full stop. They rely on a case called Applewood and  
23 they say, this is the very first point they make in their  
24 brief. Applewood, if it wasn't *res judicata* in Applewood, how  
25 could it possibly be *res judicata* here? But the facts are just

1 so inapposite, right?

2           In Applewood, you had a garden variety plan and  
3 release where the debtor and the officers and directors got a  
4 discharge. No objection to it. And a secured lender later on  
5 sought to sue guarantors who happened to be officers and  
6 directors. And the court, not surprisingly, said that the  
7 confirmation order wouldn't prevent the secured lender from  
8 going after the officers and directors, not in their  
9 capacities, as such, but in their capacity as guarantors, which  
10 were never part of the confirmation order. That just doesn't  
11 apply here because here, we have the debtor making a motion  
12 before the Court in which it sought permission and authority to  
13 acquire a particular asset. Anybody who had a claim to that  
14 asset should have stepped forward and put their cards on the  
15 table.

16           And again, CLO Holdco put their cards on the table  
17 and they lost, and they folded. To use the poker analogy, they  
18 folded. And to hear them come into Court today and say we're  
19 going to sue you because I reshuffled the deck, it's not right  
20 and Applewood has no relevance.

21           Finally, Your Honor, you know, it's not on the  
22 merits, they say, because you know, Mr. Seery and the debtor  
23 hid the true value of the asset, and had we only known the true  
24 value of the asset, we would have made all of these other  
25 claims. The fact of the matter is, you either have a fiduciary



1 duty or you don't. And if you had a fiduciary duty, they  
2 should have spoken up and they did only under 6.2, but they  
3 did.

4 But here's the important part, Your Honor. Take the  
5 allegations as true. You have to take all of the allegations  
6 as true, not just some of them. And if you look at  
7 Paragraph 127 of the complaint, and I would ask Ms. Canty to go  
8 to Appendix 11 and let's just put Paragraph 127 up on the  
9 board.

10 Here's the irony of the whole thing, right. The  
11 whole complaint is based on the fact that somehow Mr. Seery was  
12 engaged in insider trading. They accused him of insider  
13 trading, and they say he didn't disclose the full value of the  
14 asset. Just read Paragraph 127. James Dondero, who was on the  
15 board of MGM, is the tippee. You've got an insider trading  
16 case -- I mean, I don't represent MGM. I'm not with the SEC.  
17 I don't know why Mr. Dondero thought he should be telling  
18 Mr. Seery in December, 2020. It's not clear if it was before  
19 or after the 9019 motion was filed. But Mr. Dondero is the  
20 very source of information -- you can't make this up. He's the  
21 very source of the information that he now complains Mr. Seery  
22 didn't disclose.

23 Of course, Mr. Dondero, the trust, CLO Holdco could  
24 have asked Mr. Seery at any time, how did you come up with your  
25 valuation? Mr. Dondero, knowing that he had supplied to

1 Mr. Seery, according to Paragraph 27, please take it as true  
2 for purposes of this motion only. He's the source of the  
3 inside information. And now he has the audacity to come to  
4 this Court, notwithstanding the Court's approval, all of the  
5 time and money and effort spent in the 9019 process, and say,  
6 Mr. Seery was wrong because he didn't tell CLO Holdco and the  
7 DAF about the information that Mr. Dondero gave to Mr. Seery.  
8 It's not right.

9           It was a judgment on the merits. And if Mr. Dondero  
10 or the DAF or CLO Holdco or the trust wanted to challenge the  
11 valuation, they had every opportunity to do so. And based on  
12 Paragraph 127, if the Court accepts it as true, shame on them.  
13 Shame on them for not pursuing this issue before. The guy gave  
14 Mr. Seery, according to this allegation, and I'm just going to  
15 leave it there, inside information. And he sits there in  
16 silence, right? It says, look at the last sentence: "The news  
17 of the MGM purchase should have caused Seery to revalue HCLOF's  
18 investment." Seriously?

19           The third element is (indiscernible). The fourth  
20 element, if we can go to the next slide.

21           Are they the same claims? Did the claims arise from  
22 the same set of operative facts? I've addressed this pretty  
23 clearly already, so I don't want to belabor the point. But  
24 obviously, both the 9019 motion and the complaint arise solely  
25 from the debtor's settlement with HarbourVest. The debtor's

1 acquisition of HarbourVest's interest in HCLOF and the debtor's  
2 valuation of that interest. Without those three facts, there  
3 is no complaint. It's just not credible to argue that the  
4 fourth element is not met.

5 The case law is clear. It's quoted in the  
6 Plaintiffs' opposition. It's not just the test of whether the  
7 claims are the same. It's whether the claim is the same as  
8 that which was brought or could have been brought.

9 In their opposition, the Plaintiffs contend that the  
10 claims "did not write them until after the settlement was  
11 consummated," and that the first time the plaintiffs heard  
12 about the valuation of HarbourVest's interests was at the  
13 January 14, 2021, hearing. I think I quoted that. If you  
14 look, I don't know if it's Page 10 or Paragraph 10; the way I  
15 wrote it, it's probably Page 10. I think that's a quote right  
16 out of there. But of course, as we saw the debtor disclosed  
17 the valuation in its very initial motion, CLO Holdco's counsel  
18 elicited valuation testimony directly from Mr. Pugatch, so that  
19 was before the hearing.

20 And of course, Mr. Dondero and the trusts both cited  
21 in their objections the valuation. The notion that this was  
22 not right, just -- it's contradicted by their own conduct,  
23 their objections, their questions in deposition, the  
24 information that was contained in the motion that they objected  
25 to.

1 I do want to go off-script for just a minute, if we  
2 could just take that down because I know that this is probably  
3 something that Mr. Sbaiti may argue. And that is, well, gee,  
4 but you have to take the allegation as true that Mr. Seery  
5 wasn't honest, that Mr. Seery lied to the court. I don't  
6 understand why there's not a fraud cause of action in there,  
7 but there's not. But that's their theory.

8 And gee, how does he get to skate away Scott free if  
9 he's allowed to do that with impunity, right? I will tell you,  
10 Your Honor, of course you've seen Mr. Seery many times. You've  
11 made your own assessments of his credibility. I'm not here to  
12 argue the merits, but I will just say that the Defendants, if  
13 ever forced to, will contest the allegation.

14 But here's the thing, and here's the important point  
15 about, you know, whether or not he could lie with impunity and  
16 say, I suspect that's where Mr. Sbaiti is going to want to go.

17 Mr. Seery said what he said. And he had a reason to  
18 speak, and he spoke, and he said what he said and he told  
19 everybody who would listen exactly what he was doing and how he  
20 was doing it. For whatever reason, the objectors put the  
21 valuation front and center. It's right in their objections.  
22 They noted the objections. But for whatever reason, they did  
23 nothing.

24 Whether they were negligent or whether they were  
25 lying in wait is kind of irrelevant. They had a full and fair

1 opportunity to contest this issue. And if they had done so,  
2 and the evidence proved what they're now alleging, they can't  
3 tell you what would have happened. So, you know, HarbourVest  
4 may have taken a different position. The Court may have done  
5 something.

6           We're never going to know now because Mr. Seery and  
7 the debtor are getting away with something, but because they  
8 put in evidence that went unchallenged by Mr. Dondero and the  
9 Plaintiffs. It simply went unchallenged. And they say, oh,  
10 gee, that's because we didn't know. Well first of all, you  
11 didn't ask. And second of all, again, the source of the inside  
12 information, the reason that Mr. Seery should have known the  
13 asset was worth more. The reason that he should have refrained  
14 from trading and not engaged in insider information was  
15 Paragraph 127. It was Mr. Dondero.

16           Here's another thing. If -- if again Mr. Seery had  
17 not been honest with the Court and that was ever brought out,  
18 Maybe HarbourVest -- maybe HarbourVest would have had a right  
19 to complain. There's a lot in the complaint about oh,  
20 HarbourVest was misled. The actual evidence that's in the  
21 record, and this is part of res judicata, Mr. Seery testified  
22 very clearly to the arm's length negotiation that took place.  
23 He told the Court under oath that the negotiations were  
24 contentious.

25           He told the Court under oath that in order to try to

1 resolve the case, he and Mr. Pugatch went off and had their own  
2 private conversation without lawyers. They could have taken  
3 discovery on any of that, right. What did you guys talk about?  
4 It's certainly not privileged. They had every opportunity.  
5 But what we do know is that Mr. Pugatch under oath, in  
6 deposition, and at trial, said the value is \$22.5 million.

7           So I don't think Mr. Pugatch or HarbourVest is ever,  
8 ever, every going to complain about the transaction they did.  
9 Because of what the evidence simply shows. But again, you've  
10 got the Plaintiffs in their complaint saying that somehow the  
11 debtor and Mr. Seery in negotiating this transaction has now  
12 exposed the debtor to liability. It just makes no sense.

13           So there was a time and there was a place to  
14 challenge Mr. Seery. Somebody, you know, maybe HarbourVest  
15 could have done something, maybe they could still do something.  
16 I don't know. If they really think that there's a problem,  
17 maybe we'll hear from HarbourVest someday. But the Plaintiffs  
18 have no right to complain. They just don't. They knew  
19 everything. They were the source of the inside information.  
20 They sat on their hands, and they shouldn't be allowed to do  
21 what they're doing now.

22           If we can go to the next slide. I want to move to  
23 the next theory and try to finish this up. The next theory is  
24 that the Plaintiffs' claims are barred by judicial estoppel.  
25 The judicial estoppel argument is really, really very



1 straight-forward. And it's important because if the Court  
2 thinks about this the way I do, it's that the whole issue of  
3 valuation is completely irrelevant to the Plaintiffs unless  
4 they can show that they were owed some kind of duty, that they  
5 had some superior right to acquire the asset. But that's  
6 exactly the issue that CLO Holdco relied upon and withdrew and  
7 should now be estopped from pursuing. Right.

8           The legal standard, again the parties agree on, that  
9 in order to be estopped, the party must take an inconsistent  
10 position. And the party must have convinced the Court to  
11 accept that position. Again, both prongs are easily met here  
12 in just a few sentences from the January 14 hearing. You have  
13 Mr. Kane saying that he understands and acknowledges and admits  
14 that they have no superior right to the investment. And the  
15 Court relying on that very representation in declining to  
16 conduct a hearing and render a ruling on the merits of the  
17 claim that was withdrawn. The objection that was withdrawn.

18           And for the avoidance of doubt, after Mr. Draper  
19 spoke on behalf of the Trust, the Court, at Page 22 engaged in  
20 the following colloquy. The Court asked Mr. Draper:

21           "THE COURT: Were you saying that the Court still  
22 needs to drill down on the issue of whether the  
23 debtor can acquire HarbourVest's interest in HCLOF.

24           "MR. DRAPER: No.

25           "THE COURT: Okay. I was confused whether you were

1 saying I needed to take an independent look of that.

2 Now that the objection has been withdrawn of CLO

3 Holdco, you're not pressing the issue.

4 "MR. DRAPER: No. I am not."

5 Okay. You can call it res judicata, you can call it  
6 judicial estoppel, collateral estoppel, the two prongs are  
7 easily met. They're taking an inconsistent position today and  
8 through all kinds of different theories, including the one that  
9 they withdrew, the Plaintiffs assert that they had a superior  
10 right to acquire the interest from HarbourVest.

11 And they should have asserted those rights at the  
12 hearing. That was the time. And they should be estopped now  
13 from taking a completely inconsistent position from the one  
14 that was before the Court. And I just do want to point out,  
15 the statement from a case called Hall vs. G.E. Plastic. And  
16 it's interesting, Your Honor, because there's only a few cases  
17 that I focused on, because this is really more fact intensive.  
18 And there isn't a dispute as to the, you know, the elements of  
19 these matters.

20 But it is interesting that the Plaintiffs, you know,  
21 generally ignore all of the cases that we cite to. One which  
22 is Hall vs. G.E. Plastic, where the Court said that the focus  
23 on the prior success or judicial acceptance requirements is to  
24 minimize the degree of a party contradicting a Court's  
25 determination, based on a party's prior position. That's the

1 whole point of the exercise. You can't do this. You can't do  
2 this.

3 Just quickly, that leaves the individual arguments as to  
4 each of the five causes of action and I just want to go through  
5 some highlights. There's a negligence claim, Your Honor. And  
6 we did not file a pleading, but the Court can certainly take  
7 judicial notice of the fact that the effective date has  
8 occurred. Under the effective date, the plan is now effective.  
9 That includes the exculpation clause, as Mr. Pomerantz, I think  
10 accurately and without contradiction pointed out earlier, the  
11 exculpation clause applies specifically to the debtor and to  
12 negligence claims. And that's not a matter that's at all  
13 subject to appeal.

14 So I think just to add to the arguments that we have  
15 in our papers, which I adopt and do not abandon for any  
16 purpose, I would add to the argument on negligence, that it's  
17 now precluded, as a result of the plan becoming effective.

18 The fiduciary duty count suffers from numerous defects. I  
19 just want to point out a couple of them. They don't respond to  
20 the argument under Corwin, that under the Advisor's Act, there  
21 is no private right of action to sue for damages arising from a  
22 breach of fiduciary duty. This claim rears its head in  
23 virtually every single complaint. They've never addressed  
24 Corwin. Corwin is binding on this Court, and it is unambiguous  
25 that there is no private right of action to sue for damages for

1 breach of fiduciary duty under the Advisor's Act.

2           They ignore Goldstein. Goldstein is not from the  
3 Fifth Circuit, but it's very persuasive authority that advisors  
4 do not owe fiduciary duties to their individual investors.  
5 Instead, they owe fiduciary duty to their client. Their client  
6 is the entity with whom they're in contractual privity. And so  
7 in this case, there's no fiduciary duty there, either.

8           The breach of contract claim. Again I just -- I  
9 would just say quickly, Your Honor, it's barred under judicial  
10 estoppel. Even if it wasn't, it's clear based on Mr. James'  
11 analysis and admission that the debtor's, or the reorganized  
12 debtor's interpretation of 6.2 is accurate. And you know, I  
13 said this in the beginning. Now let me tie it in a bow because  
14 the breach of contract claim, and the tortuous interference  
15 claim are both tied to the same thing. And that is the  
16 assertion that the Plaintiffs had a right under the membership  
17 agreement, a right of first refusal.

18           And they basically say that the debtor was playing  
19 games. That they shouldn't be able to get through 6.2 by  
20 assigning it to an affiliate. And that's where I go back, Your  
21 Honor, and just remind the Court that the debtor told the whole  
22 world exactly what they were doing in their motion. And their  
23 objections, Mr. Dondero and the Trusts both acknowledge to the  
24 whole world that they understood exactly what was happening.

25           In fact, their concern was not that it was going to

1 the debtor, but that it might be going to an affiliate outside  
2 of the bankruptcy court's jurisdiction. And for them to now  
3 say, having taken all of those positions -- talk about  
4 inconsistent positions. They should be barred from saying  
5 today, that the use of an affiliate to effectuate the  
6 transaction was wrongful, because they actually told the Court  
7 that they needed to -- that the Court needed to make sure that  
8 it had jurisdiction over the very entity they now say somehow  
9 shouldn't have been allowed to get the asset.

10           It's a bit much. So that takes care of the tortuous  
11 interference.

12           The RICO claim, Your Honor, again is a motion.  
13 There's so many different aspects to it. But I don't think the  
14 Court needs to get past the Supreme Court holdings in HJ, Inc.  
15 Again, just simply ignored by the Plaintiffs in their  
16 opposition to the motion to dismiss. In HJ, Inc., the Court --  
17 the Supreme Court did an exhaustive analysis to try to  
18 determine and ultimately did determine, what a pattern of  
19 racketeering activity meant. And the Supreme Court came to the  
20 following formulation. That it had to have two or more  
21 predicate related offenses that amounted to a threat of  
22 continued criminal activities.

23           You know, the notion here is that the debtor and Mr.  
24 Seery engaged in insider trading. We've already -- I've  
25 already mentioned that according to the complaint, which the

1 Court can take as true. Mr. Dondero, himself, was the tippee.  
2 But be that as it may, they don't come close to meeting the  
3 very high standards set forth by the Supreme Court in HJ, Inc.  
4 to show that whatever conduct Mr. Seery and the debtor engaged  
5 in, and if you take the allegations as true, in not telling  
6 what the fair value of the asset was, that that doesn't amount  
7 to a hill of beans for purposes of RICO. That you don't have  
8 any, I think predicate acts. I think here's the Court,  
9 predicate acts extending over a few weeks or months,  
10 threatening no future criminal conduct, do not meet RICO  
11 pleading grounds. Right.

12 Security fraud claims cannot be predicate acts for  
13 purposes of RICO. That is also clear. And that is really, I  
14 mean they say mail, wire and fraud. But what's really at heart  
15 is the 10(b)(5). Okay, it's the 10(b)(5) claim. Again, Mr.  
16 Seery being -- I mean Mr. Dondero being the tippee. But those  
17 are just some of the reasons.

18 None of, you know, that the RICO claim fails. You  
19 know, I'll otherwise rely on the papers, unless the Court has  
20 specific questions as to any of the other pieces of the motion  
21 to dismiss the RICO claim, or any other aspect of the  
22 Defendants' motion. I think this is clear. I think we win, no  
23 matter how you slice it. It's just wrong. It's just wrong.

24 This Court will never, ever have a final order if Mr.  
25 Dondero is able to engineer complaints such as this, which seek



1 to assert claims that absolutely positively could have and  
2 should have been brought at the time the debtor made its  
3 motion.

4 Unless the Court has any questions, I have nothing  
5 further.

6 THE COURT: I do not. All right.

7 Mr. Sbaiti, I'm going to let you have as much time as  
8 Mr. Morris. He took 55 minutes. As I mentioned, I have a hard  
9 stop at 12:00 to do a swearing in ceremony. So if you're not  
10 finished in 40 minutes, then I'm going to have to take a break  
11 and come back and let you finish. All right?

12 MR. SBAITI: Thank you, Your Honor. Although I don't  
13 think I'm going to be much longer than 35-ish minutes.

14 THE COURT: Okay.

15 MR. SBAITI: if not less.

16 THE COURT: Okay.

17 MR. SBAITI: I think you'll be able to be done by --  
18 we'll be able to be done by noon.

19 THE COURT: All right. Thank you.

20 MR. SBAITI: Thank you, Your Honor. Your Honor, may I  
21 share my screen?

22 THE COURT: You may.

23 MR. SBAITI: Thank you, Your Honor. Do you see my  
24 Power Point, Your Honor?

25 THE COURT: I do.

1 MR. SBAITI: Thank you, Your Honor. I don't know  
2 what which one you see. Is it the --

3 THE COURT: I see presentation.

4 MR. SBAITI: With the full page?

5 THE COURT: Yes, uh-huh.

6 MR. SBAITI: Okay, yeah, great. I just want to make  
7 sure we're on the right page. Thank you, Your Honor. So Your  
8 Honor, the defendant debtor is a registered investment advisor.  
9 And it all begins with that. And this where the distinctions  
10 between what happened in the 9019 and I'll get to the elements  
11 of res judicata through argument.

12 But the first thing that has to be identified is that  
13 the Defendant is a registered investment advisor. The  
14 objection filed by Holdco back during the 9019 was an objection  
15 against HarbourVest selling its interest by filing the right of  
16 first refusal. It did not deal with the investment advisor  
17 feature of Highland's relationship. And I'll get to why the  
18 9019 doesn't preclude these arguments today.

19 This is essentially the structure. Highland was the  
20 investment advisor of HCLOF, and Holdco is an investor in  
21 HCLOF. And so Highland would owe a fiduciary duty under the  
22 Advisor's Act against -- to CLO Holdco.

23 Highland also had a direct advisor relationship with  
24 the DAF. And so under the Investment Advisor's Act, it owed  
25 fiduciary duties to both of those entities. The law governing

1 registered investment advisors is that it's a federally  
2 recognized and defined fiduciary duties. The fiduciary duty to  
3 there's a fiduciary duty to affirmatively keep the advisee  
4 informed and the fiduciary duty not to self-deal, i.e., not to  
5 trade ahead of an advisee and opportunity that an advisee would  
6 want or expect and without the advisee's expressed informed  
7 consent.

8           This is a federally recognized and defined fiduciary  
9 duty and it's actionable under state fiduciary duty laws.  
10 While Mr. Morris ended his argument by saying we didn't deal  
11 with their case law saying that there's no private right of  
12 action under the Advisor's Act, the fact of the matter is that  
13 Judge Boyle, about ten years ago, found that a state -- the  
14 breach of fiduciary duty claim can be predicated on breaches of  
15 federally imposed fiduciary duties under the Advisor's Act.  
16 And that's what Douglass v. Beakley held. And that's actually  
17 what we cited in our response. So I'm not sure why he would  
18 argue that we haven't addressed the issue of where does this  
19 private right of action come from.

20           Federal Law supplies the rules of the relationship  
21 and State Law provides the cause of action for those breaches.  
22 Now the scope of that has been expounded upon by many cases.  
23 The Fifth Circuit held in Laird, as a fiduciary, the standard  
24 of care to which an investment advisor must adhere imposes an  
25 affirmative duty of utmost good faith and full and fair

1 disclosure to all material facts, as well as an affirmative  
2 obligation to employ reasonable care to avoid misleading his  
3 clients.

4           The word "affirmative" there is important because it  
5 means the investment advisor is not supposed to wait to be  
6 asked. The investment advisor as an affirmative duty to  
7 proactively provide the information to the client.

8           The next standard comes from the SEC. We call it the  
9 SEC interpretation letter. It's a release that came out in  
10 2019. And to meet it's duty of loyalty, an advisor must make  
11 full and fair disclosure to its clients of all material facts  
12 relating to the advisor relationship. Material facts relating  
13 to the advisor relationship include the capacity at which the  
14 firm is acting with respect to the advice provided.

15           The SEC had another release in 2000 -- or excuse me,  
16 in that same release, the SEC said the duty of loyalty requires  
17 that an advisor not subordinate its clients interests to its  
18 own. In other word, an investment advisor must not place its  
19 own interest ahead of its clients' interests. An advisor has a  
20 duty to act in the client's best interest, not its own.

21           The SEC general instruction three to part 2 of Form  
22 ADV, that every investment advisor has to pull out. And this  
23 is cited in our papers. As a fiduciary, you must also seek to  
24 avoid conflicts of interest with your clients, and at a  
25 minimum, make full disclosure of all material conflicts of

1 interest between you and your clients that could affect the  
2 advisor relationship. This obligation requires that you provide  
3 the client with sufficiently specific facts, so that the client  
4 is able to understand the conflicts of interest you have, and  
5 the business practices in which you engage, and can give  
6 informed consent to such conflicts or practices or reject them.

7 And, finally, the Third Circuit in Belmont said:

8 "Under the best interest test, an advisor may benefit  
9 from a transaction recommended to a client if, and  
10 only if, that benefit, and all related details of the  
11 transaction are fully disclosed."

12 These fiduciary duties are unwaivable by the advisor.  
13 Any condition, stipulation or provision binding any person to  
14 waive compliance with any provision of this subchapter, or with  
15 any rule, regulation or order thereunder shall be void.

16 So the lawsuit does not allege that the HarbourVest  
17 settlement should be undone or unwound. I'd like to move to  
18 that point. Mr. Morris says well, you have to unwind half of  
19 the settlement. Maybe HarbourVest doesn't have to give back  
20 what it got, but Highland would still be saddled with the cost  
21 of the settlement, but not with the benefit of the settlement.

22 Well, actually that's not true. There's two points  
23 that we would make on that. Number one, our suit is a suit for  
24 damages. In other words, the suit would be a suit for money  
25 damages, based on the difference between the value of the asset

1 and what HarbourVest or what the actual value of the asset that  
2 was represented, \$22.5 million. So the second point, though,  
3 is that even under a situation where CLO or Holdco or the DAF,  
4 or even HCLOF were to purchase the HarbourVest suit, the  
5 expectation would obviously be that they'd pay the \$22.5  
6 million that Highland paid for it.

7           So Highland is -- so it's not unwinding, and there's  
8 no saddling Highland with a burden that they didn't otherwise  
9 have, I think that's a misrepresentation. But we're not  
10 seeking to unwind the lawsuit -- or excuse me, unwind the  
11 settlement.

12           Now Mr. Morris is correct, the representation of  
13 value by Mr. Seery is -- is one of the main points here. And  
14 the representation was that the value of the entire asset. Not  
15 just the shares of MGM, but the value of the entire asset was  
16 \$22.5 million. So in other word, nearly half of HCLOF was  
17 represented to be worth \$22.5 million. It was argued by  
18 counsel on Page 14 of the January 14th transcript, and then on  
19 Page 112 of that transcript, Mr. Seery specifically says the  
20 current value is right around \$22.5 million.

21           Now that was also in some of the filing papers and  
22 Mr. Morris put up the evidence to Your Honor that Mr. Pugatch,  
23 on behalf of HarbourVest also parroted that number. But  
24 there's not any evidence today about where that number came  
25 from, or whether he was simply relying on Highland's



1 representation of that value.

2 Now as a general rule, in these 12(B)(6) motions, as  
3 I said before, we don't look at the evidence because the whole  
4 point of discovery is to find out what's behind a lot of the  
5 evidence. That's been quoted. The amount of evidence that  
6 went into the 9019 motion as not necessarily full-blown  
7 discovery.

8 I understand Mr. Morris saying well, they could have  
9 asked the question. But as I just showed you, they shouldn't  
10 have to ask the question. There should be fair and full  
11 disclosure of all the material facts. And if it turns out,  
12 which we believe it is true, that by January, the value of  
13 HCLOF was twice what it was represented, or the HarbourVest  
14 portion of HCLOF was twice as to what it was represented,  
15 that's a material omission that Highland had an affirmative  
16 duty to not misrepresent. Irrespective of the questions being  
17 asked.

18 The DAF found out later on that the representation of  
19 the value wasn't true. Now Mr. Morris talked for a very long  
20 time about all the opportunities that somebody, Mr. Dondero,  
21 somebody other than CLO Holdco. In addition to CLO Holdco,  
22 could have asked the magic question to find out whether or not  
23 they were telling the truth. But that runs right in the face  
24 of the standards set forth by the SEC and by the Courts as to  
25 the affirmative obligation of an advisor to disclose all the

1 material benefits that they're going to get as part of a trade.  
2 The idea being that when you're a registered investment advisor  
3 and you want to engage in a transaction, you make a full  
4 disclosure and say this is the transaction. It's worth 41, but  
5 I'm paying 22-1/2. But here's why I'd like to be able to do  
6 it. And then that's the discussion that happens.

7           That clearly didn't happen here. And when it turned  
8 out that there was this entirely huge upside that they were  
9 gaining the benefit of, and maybe HarbourVest didn't care, that  
10 that was a false statement. Now the reason we don't have a  
11 common law fraud claim, or that we don't necessarily hang our  
12 hat on a fraud claim is we don't have enough evidence as it  
13 stands today, to specifically say that Mr. Seery intentionally  
14 misrepresented that. Although we believe that it was grossly  
15 reckless of him to do so. But we don't really need a fraud  
16 claim with a gross recklessness standard. We have a breach of  
17 fiduciary duty, which basically gets us to the same place.

18           So the timeline we have is September 30th was the  
19 last valuation of HCLOF assets provided by HCMLP. And the  
20 value of HCLOF, at that time, or the HarbourVest of that value,  
21 would have been about 22.5 million. So what it appears to be  
22 is that in January or in late December, the valuation that was  
23 being done -- what was being reported, wasn't the current  
24 valuation. It was the valuation as of the end of the third  
25 quarter of 2020.

1           On December 22nd, the motion to approve the  
2 settlement with HarbourVest was filed. HCMLP should have had  
3 or would have had up-to-date valuations of the HCLOF assets,  
4 but didn't necessarily disclose them as being different than  
5 the 22.5 million. On January the 14th, Your Honor, held the  
6 9019 hearing. And then that same day, Your Honor entered the  
7 approval order.

8           And finally, in March, the DAF learns the true value  
9 of HLOF assets as of January 2021 and starts to look into it.  
10 Now Mr. Morris makes much of the fact that well, Mr. Dondero at  
11 least knew that he had tipped them off, Mr. Seery. And if you  
12 actually read Paragraph 127, you'll see specifically what it's  
13 purported that he said. He said stop trading in the MGM  
14 assets, because MGM might be in play. So you can't trade  
15 because I'm an advisor, Mr. Dondero's an insider, he's the  
16 tipper, not the tippee. Mr. Seery becomes the tippee under  
17 that theory of the case, and he has to, and is required to,  
18 because of their affiliation at the time, he's required to  
19 cease trading. And that was the purpose of saying that.

20           The collateral issue that we point is that he at the  
21 very least knew about that, and that should have caused him to  
22 revalue, if he hadn't done so at the time. Not that, knowing  
23 that alone is sufficient to know what the value of HCLOF  
24 actually was on that date. That's a complete misrepresentation  
25 of the point and purpose of that allegation.

1           And as Your Honor knows, under 12(B)(6)  
2 jurisprudence, the way this is supposed to go is we get the  
3 benefit of every inference based upon the allegations, not the  
4 movant. So the first violation is that the debtor as an IRA  
5 failed to affirmatively disclose the true current valuation of  
6 HCLOF and failed to keep the DAF and CLO Holdco reasonably  
7 informed of the value of the assets.

8           And the debtor as an IRA, failed to obtain CLO  
9 Holdco's with the DAF's informed consent before it traded in  
10 the asset, because it didn't have all of the information. The  
11 typical remedy for breach of fiduciary duty is typically  
12 damages for any loss suffered by the Plaintiff as a result of  
13 the breach. I don't think there's a debate there.

14           So now we get to Mr. Morris' key argument. His key  
15 argument is that we should be talking about res judicata. The  
16 elements of res judicata and I think we agree is you have to  
17 have identical parties in the action; the prior judgment was  
18 rendered by a Court of competent jurisdiction; the final  
19 judgment was final on the merits, and the cases involved the  
20 same causes of action or the same transaction and nexus of  
21 facts.

22           Now I'm going to skip to three, because I think  
23 that's one of the key points that we disagree with them on.  
24 There is no case, Your Honor, that we could find, and no case  
25 that I read them citing that says an order on an 9019 has

1 preclusive effect under res judicata under an objector to the  
2 settlement. We looked. We looked in the Fifth Circuit. We  
3 looked outside of the Fifth Circuit. No District Court, no  
4 Fifth Circuit Court of Appeals' opinion we could find held that  
5 a 9019 order has res judicata effect on an objector's  
6 objection. And I think the reason is pretty simple. Is it  
7 doesn't.

8           Because the Plaintiff's claims, here our claims  
9 hadn't even accrued. We have a four year statute of  
10 limitations, but I think more importantly is that, as the Fifth  
11 Circuit said, the 9019 motion grants the Court discretion.  
12 It's not supposed to be a mini trial. The Court can approve a  
13 settlement over even the valid objection of an objector. It's  
14 not a trial on the merits. It's not supposed to be a trial on  
15 the merits. It's not supposed to be a disposition on the  
16 merits.

17           So the fact that Your Honor could have approved the  
18 9019 settlement with HarbourVest, even if we had a valid  
19 objection, means this isn't a disposition on the merits, as res  
20 judicata would envision. It wasn't a trial on the merits, even  
21 though it was withdrawn.

22           The other elements that we would point out to is that  
23 neither the DAV nor Holdco were parties to the dispute between  
24 HarbourVest and Highland. And this keys off of the issue that  
25 I just raised. The cases that are cited by the debtor to Your

1 Honor all have to do with where one of the settling parties is  
2 trying to undo the settlement for some collateral reason. And  
3 the Courts have held, no, that's res judicata, because you were  
4 a party to the action. HarbourVest brought the claims against  
5 Highland. Highland settled those claims.

6 CLO Holdco was collateral to that settlement, it's  
7 not a -- excuse me, collateral to that dispute. It's not a  
8 party to that dispute. Its claims weren't being resolved by  
9 the settlement. And while you have a notice to all creditors  
10 and those objections can be raised, there was not inherently  
11 any manner for resolving those objections on their own merits.  
12 Only -- it was only resolved in so far as deciding whether or  
13 not the settlement was in the best interest of the debtor,  
14 which Your Honor decided, and we don't challenge that. But we  
15 do argue that it caused damages and the debtor shouldn't get  
16 off for those damages.

17 The fourth element is that the --

18 THE COURT: Just for the record, the standard in a  
19 9019 context is not best interest of the debtor, right?

20 MR. SBAITI: Your Honor, I mean that's what the rule  
21 says and Your Honor's order --

22 THE COURT: That is not what the rule says. The rule  
23 is actually very sparsely worded and then we have Fifth Circuit  
24 case law and U.S. Supreme Court law that talk about what the  
25 standard is.



1 MR. SBAITI: Yes, Your Honor. And there are five --

2 THE COURT: And it's -- is it fair?

3 MR. SBAITI: There are five elements.

4 THE COURT: Is it fair and equitable and in the best  
5 interest of the estate given a long list --

6 MR. SBAITI: Correct, Your Honor. And I didn't mean  
7 to --

8 THE COURT: -- of considerations that the Court is  
9 supposed to consider that "bear on the wisdom of the  
10 settlement." Okay. So it's actually much more involved, is my  
11 point, than is it in the best interest of the estate. Is it in  
12 the best interest of the estate and fair and equitable given  
13 all factors bearing on the wisdom of the compromise? And then  
14 we have a long laundry list of things the Court should consider  
15 as part of that analysis.

16 MR. SBAITI: That's a --

17 THE COURT: I just bring that up because if I'm still  
18 -- my brain is still stuck five minutes ago on your comment  
19 that you can't find any case saying that an order approving a  
20 9019 compromise has res judicata effect on creditors. And it's  
21 -- let me just say it's shocking to me that someone would argue  
22 otherwise. Bankruptcy is a collective proceeding --

23 MR. SBAITI: Your Honor --

24 THE COURT: -- where creditors can weigh in and  
25 object and raise whatever arguments they think the Court should

1 consider that bear on the wisdom of the compromise. And the  
2 Fifth Circuit in Foster Mortgage has said the Court should give  
3 great deference to the views of the creditors, the paramount  
4 interest of creditors.

5           So it's a really sort of shocking proposition that  
6 the order approving a 9019 compromise wouldn't have res  
7 judicata effect on all parties and interests who got notice of  
8 that. So if you have any elaboration on that, I'd like to hear  
9 it.

10           MR. SBAITI: Your Honor, we looked at the Fifth  
11 Circuit cases that they cited, which I believe included that  
12 case. And even in that case, the point that we made in our  
13 papers and the point I was trying to arrive at is that among  
14 the factors, yes, the Court should give great deference to the  
15 creditors. But among the factors is not that the objections  
16 lack merit or are meritless or that they wouldn't be winnable  
17 if they were simply standalone claims.

18           And that was really the only point I was trying to  
19 make is that Your Honor has discretion. Granted it's -- as you  
20 mentioned, it's not unfettered discretion. It's bounded by  
21 standards and there are -- there is, I know, about five  
22 standards Your Honor has to consider or the Court has to  
23 consider. But among those, that laundry list of standards, is  
24 not that the Court finds that any objection lacks merit. And  
25 that was really the only point I was making.

1           And in terms of the case law, we looked at the Fifth  
2 Circuit. We looked, frankly, outside the Fifth Circuit as much  
3 as we could, and because this is actually not an easy one to  
4 research, as it turned out, despite the language. And we also  
5 looked for district court opinions in the Fifth Circuit to see  
6 did any district court or did any court of appeals give this  
7 type of approval to the standard that a 9019 order has res  
8 judicata effect on a claim raised in an objection by a  
9 creditor.

10           And we couldn't find any and I read all the cases  
11 that Mr. Morris cited in his papers, and they didn't cite one  
12 that explicitly said that. They tried to drive at it through  
13 insinuation that, well, if the Court has to give great  
14 deference or if the Court has to take into account the  
15 underlying facts and the fact that there is discovery, surely  
16 that must mean this is akin to the trial on the merits. And I  
17 think that's where we simply disagree in good faith. I'm not  
18 ascribing any bad intention. But we disagree that that's where  
19 the law goes.

20           Res judicata is not -- while it's supposed to stop  
21 the relitigation of issues, it is predicated on there having  
22 been actual litigation of those issues. And when HarbourVest  
23 and Highland settle a case and my clients show up with an  
24 objection, even though they withdraw an objection, that, in our  
25 opinion -- and we're asking the Court to see it our way -- is

1 not trial on the merits. It's not a disposition on the merits  
2 of the objection in and of itself. Some objections we can --

3 THE COURT: But the context matters. In the context  
4 of a 9019 compromise, the hearing is about look at the bonafide  
5 ease of the settlement. And it's either fair and equitable and  
6 in the best interest of the estate or not. And an objector can  
7 say this is a terrible settlement and here's why it's a  
8 terrible settlement and let me cross-examine the movant and let  
9 me put on my own witness that will enlighten the Court as to  
10 why this is a terrible settlement, why I say terrible, why it's  
11 not fair and equitable.

12 That's your chance to convince the Court, don't  
13 approve this settlement because there are, you know, 14  
14 problems with it. And if you convince the Court, then you  
15 convince the Court and it's not approved. If you don't, you  
16 appeal, and we do have an appeal of the settlement order.

17 So, again, I'm not understanding the "res judicata  
18 doesn't apply" argument.

19 MR. SBAITI: Your Honor, if I could riff on two  
20 points based upon what you just said, if I could address those.

21 The first is there are clearly two kinds of  
22 objections that get -- at least two kinds of objections that  
23 get raised in these 9019 approval hearings. The two that you  
24 heard recounted, some were this is bad for the estate. There's  
25 reasons why we don't think the estate will benefit from it and

1 it will be harmed from it.

2           And those types of objections, which I believe mostly  
3 comprise the objections that Mr. Morris was talking about  
4 because they are concerns for the estate. And so creditors who  
5 want to get money from the estate are concerned that the  
6 settlement will not enter (phonetic) to the benefit of the  
7 estate, and therefore, not enter to their benefit as creditors.  
8 That's number one.

9           But those don't adhere in a lawsuit. Those aren't  
10 claims for damages that the settlement is going to create for  
11 the person objection or for the party objecting. There's a  
12 whole separate set of objections similar to the ones HCLLO  
13 Holdco raised where that what inheres in the objection is this  
14 is actually going to cause us some kind of damage.

15           And so, the factors though, don't require the Court  
16 in those second set of instances to say, well, you know what?  
17 Not only do I think you're wrong, but I think that your  
18 lawsuit, the underlying causes of action that give rise to this  
19 objection, have no merit on their own face, that the discovery  
20 is not there to support them, that a jury is not going to find  
21 there. I am now the trier or the Court is now the trier of  
22 fact on the merits of the underlying causes of action that  
23 animate the objection.

24           And that's where I believe we're diverging with the  
25 debtor on the law. It goes too far to say that a 9019 hearing

1 where the Court in the end has discretion to approve it, even  
2 over a meritorious objection by any party, regardless of what  
3 bucket of objections the objection falls into. It goes -- our  
4 argument today, Your Honor, and we're asking the Court to see  
5 it our way, is that that would go too far. That an actual  
6 cause of action shouldn't be eradicated simply because of the  
7 9019 process because, as you pointed out, the Court does have  
8 to go through a litany of factors.

9           And if the Court determines that it's fair and it's  
10 more equitable to overrule the objection, the Court has that  
11 discretion. And we're not here to unwind that discretion.

12           But the settlement process did violate certain  
13 obligations and did cause my client damages. And that's what  
14 we're saying isn't precluded.

15           THE COURT: Okay.

16           MR. SBAITI: The fourth element, Your Honor, which I  
17 guess in many ways maps on to the argument I just made to Your  
18 Honor is that the cases, the underlying cases, do not involve  
19 the same claims. Plaintiffs' claims arise from the settlement  
20 process itself and not from the underlying issues being settled  
21 between HarbourVest and Highland. So that's why we think at  
22 least three of the four elements aren't met here. And we'll  
23 reserve on the papers, you know, whether jurisdiction was  
24 applicable because I think that's probably water under the  
25 bridge at this point in the oral argument.



1           Now, Mr. Morris attacks the case that we cite,  
2 Applewood Chair vs. Three Rivers Planning. And he argues that,  
3 well, this is not applicable. And the argument he made however  
4 was he put it in the context of, well, the parties there, the  
5 issue was you had guarantors who were not parties in their  
6 capacity as guarantors. But that's not actually what the Court  
7 held.

8           The Court didn't say that the release wasn't  
9 applicable to them because they didn't appear as parties in  
10 their guarantee capacities. They -- the Court held that, well,  
11 the specific discharge language doesn't enumerate those  
12 specific guarantees, and so therefore it's not released.

13           And where this dovetails, we believe, as closely as  
14 we can, this isn't a 9019 case. This is a final confirmed  
15 plan. But where it dovetails with what our argument is, is  
16 that the Court there as well was essentially saying the  
17 underlying causes of action weren't really presented to us, so  
18 we're not -- we -- and the confirmation of the plan didn't  
19 involve disposing of them, so we're not going to say that they  
20 are precluded. And we think that that's as close an analogy as  
21 we've found in the Fifth Circuit to the issues here today.

22           So I would say, Your Honor, that we believe that  
23 dispenses with the res judicata argument. The judicial  
24 estoppel argument, they conflate the language. I'll go back to  
25 this for a second. They conflate the language of judicial

1 estoppel on the success of the claim. None of the cases they  
2 cite on judicial estoppel involved where a party took a  
3 position, withdrew their argument, and then the Court moved on.

4           Mr. Morris tries to convert a judicial estoppel claim  
5 into a judicial reliance claim, which is not the purpose of the  
6 doctrine and is not the doctrine at all. The doctrine is that  
7 if you take a successful position in one court, you can't take  
8 the opposite position in another court. CLO Holdco didn't take  
9 a successful position in one court and then change its position  
10 later on. In fact, its positions, as Mr. Morris stated, are  
11 remarkably similar. They're not inconsistent, which is the  
12 problem with their judicial estoppel argument. And we -- I  
13 think we fairly briefed that in our papers and we'll otherwise  
14 rest on the papers.

15           To deal -- to address the actual claims, again, I  
16 come back to the idea of a fiduciary duty claim, which is our  
17 lead claim. And to be clear, it's a state claim predicated on  
18 the violation of federally imposed fiduciary duties.

19           And I'm looking for a clock to make sure I'm not  
20 abusing Your Honor's time, and I don't have one right in front  
21 of me because my screen -- my screen is up.

22           Your Honor, the Douglass v. Beakley case is, like I  
23 said, is Judge Boyle's case. It specifically provides a cause  
24 of action based upon violations of the Advisers Act. We also  
25 cite about four or five other cases in footnote 8 of our

1 response from other circuits, including the Third Circuit, the  
2 Belton case that I referred to earlier, all of which held that,  
3 yes, a state fiduciary duty claim can be predicated on breaches  
4 of a federal Advisers Act violation.

5           The other point that they make on the fiduciary duty  
6 claim is they argue HCMLP doesn't owe fiduciary duties to CLO  
7 Holdco. And the cases they cite, Your Honor, we dealt with in  
8 the papers why they were distinguishable, because in those  
9 cases they were dealing with the fact that there wasn't any  
10 harm or any direct relationship. But what they ignore is the  
11 actual language of the Advisers Act, which is important.

12           Well, first of all, Mr. Seery admitted in his own  
13 testimony during the approval hearing in July of 2019 that he  
14 says, "We owe." He says, "There are third party investors in  
15 the fund -- in these funds who have no relation whatsoever to  
16 Highland, and we owe them a fiduciary duty both to manage their  
17 assets prudently, but also to seek to maximize value." I think  
18 Mr. Seery was absolutely correct when he said that. Highland  
19 owes fiduciary duties to the investors in the funds that  
20 Highland manages. The core of our case is that Highland is  
21 using or abusing the assets of the funds it managed in HCLOF  
22 for its own enrichment, which is a classic breach of fiduciary  
23 duty case under the Advisers Act.

24           Now -- excuse me. The other point that I would say,  
25 Your Honor, is that there is a statutory basis for us to argue

1 a breach of fiduciary duty. Excuse me. I didn't mean to stop  
2 sharing. I apologize.

3 Are you back with me, Your Honor, on my --

4 THE COURT: Yes.

5 MR. SBAITI: -- PowerPoint?

6 THE COURT: Yes.

7 MR. SBAITI: Sorry about that, Your Honor. I just  
8 hit the wrong thing. I'm not very technologically savvy. Here  
9 we go.

10 So Holdco is an investor in HCLOF, which is a pooled  
11 investment vehicle. A pooled investment vehicle under the case  
12 law we cite is simply defined as an investment vehicle that  
13 doesn't publicly solicit investors and has few than 100  
14 investors. Highland advises it. That's the same holding in  
15 TransAmerica Mortgage, by the way, which we also cite.

16 15 U.S. C. Section 80(b)(6) establishes the federal  
17 fiduciary standards to govern the conduct of registered  
18 investment advisers. That's also the TransAmerica case. 15  
19 U.S.C. Section 80(b)(6)(D) delegated to the SEC the power to  
20 decide the scope of those duties that are imposed under the  
21 statute. And so the SEC enacted 17 C.F.R. Section 275.206(4)-  
22 8.

23 And it expressly states, and we cite the statute or  
24 the regular in full in our papers, that the fiduciary duties  
25 are owed to investors in the pooled investment vehicles. It

1 specifically says that. It talks about two different duties  
2 owed and they're owed to the investors in the vehicles, which  
3 means they're owed to Holdco as an investor in HCLOF, which is  
4 the vehicle that Highland manages.

5 It's black and white in the regulation. And we  
6 haven't seen any response. There was no response of that in  
7 the reply that was filed, Your Honor. And so the argument that  
8 there's not a fiduciary duty owed to Holdco because it's merely  
9 an investor in HCLOF simply doesn't comport with the law.

10 And finally, the petition lays out the basis for our  
11 claims including the applicable federal and state law.  
12 Plaintiffs' response lays out why the legal arguments aren't  
13 opposite at the 12(b)(6) stage and Rule 9(b) is met where  
14 necessary under the federal claim. And I'm trying to unshare  
15 so that I can get back to regular argument.

16 I'd like to briefly address Mr. Morris' argument,  
17 Your Honor. Your Honor, I re-raise my argument that I made  
18 before, which is that a 12(b)(6) motion and hearing is not the  
19 appropriate time for all the evidence that was poured in here.  
20 And I understand Mr. Morris' contention, well, it's really hard  
21 to ignore all the history of this case. But a lot of that  
22 history really boils down to things that were actually admitted  
23 in the complaint. The complaint recognized there was a 9019.  
24 But what Mr. Morris wants to do is go beyond that and to go to  
25 what people said and what they must have meant. What Mr.

1 Dondero must have meant in his objection, what Dugaboy must  
2 have meant by their objection, what Mr. Pugatch must have meant  
3 by his testimony.

4 All of that is highly improper at this stage of the  
5 proceeding, Your Honor. It's outside of the 12(b)(6) confines.  
6 It's outside the four corners of the complaint. And we object  
7 to all of that evidence being considered.

8 THE COURT: Let me --

9 MR. SBAITI: The question we --

10 THE COURT: Let me ask you about that procedural  
11 point.

12 MR. SBAITI: Yes, Your Honor.

13 THE COURT: As we know, 12(d) provides that if  
14 matters outside the pleadings are presented to and not excluded  
15 by the Court in a 12(b)(6) motion, the motion must be treated  
16 as one for a summary judgment under Rule 56 and all parties  
17 must be given a reasonable opportunity to present all the  
18 material that is pertinent to the motion.

19 Are you -- what are you arguing? That I should treat  
20 it as a motion for summary judgment and give you more time to  
21 present other materials? I mean, you both presented an  
22 appendix, okay. And I'm telling you we're seeing this more and  
23 more, I've noticed. People are going beyond the four corners  
24 of a motion to dismiss and attaching things. And there's some,  
25 you know, Fifth Circuit authority that says, well, if what is



1 attached is integral to understanding, you know, an allegation  
2 or whatever in the pleading, you know, there is some discretion  
3 to go outside the four corners.

4           So I'm trying to understand the point you're making  
5 with this. Are you saying I should treat it as a motion for  
6 summary judgment or do these attachments really -- you know, do  
7 I have authority under the Fifth Circuit to consider them as  
8 part of the 12(b)(6) motion or not?

9           MR. SBAITI: Typically, in our experience, Your  
10 Honor, is when a summary or when a 12(b)(6) is going to be  
11 treated as summary judgment under 12(d), the Court says that  
12 and then the parties are given an opportunity, as you said, to  
13 go do some discovery in order to put together the evidence and  
14 materials to then come back and respond as a summary judgment.  
15 We responded to a 12(b)(6) and objected to the evidence. If  
16 the Court wants to treat it as a summary judgment, then we  
17 would ask for an opportunity for -- to conduct discovery in  
18 order to be able to respond as a summary judgment motion, but  
19 we didn't -- because we responded to a 12(b)(6) --

20           THE COURT: You did the same thing though. You did  
21 the same thing in your response. You submitted an appendix of  
22 evidence, if you want to call it evidence. As someone pointed  
23 out, it's stuff from the bankruptcy court record. I don't  
24 think it went beyond what was already in the bankruptcy court.

25           MR. MORRIS: And if I -- can I be heard on this, Your

1 Honor?

2 THE COURT: You can. You can.

3 MR. MORRIS: Just to respond. This is really quite  
4 simple. The motion to dismiss is based on res judicata. Res  
5 judicata necessarily requires a review of what happened in  
6 connection with the prior hearing. There's nothing that we  
7 have identified or put forth in the appendix or on our exhibit  
8 list except for the pleadings in the 9019, the transcripts, the  
9 one deposition transcript, the one trial transcript, the  
10 settlement agreement, the transfer agreement. I'd love to know  
11 what the Court couldn't or shouldn't take judicial notice of.  
12 There is no emails. There is no -- there is no -- there is no  
13 extrinsic evidence, if you will. All of this is either on the  
14 docket or was presented as part of the hearing.

15 THE COURT: Yeah. I'm just trying to ferret --

16 MR. MORRIS: And it's necessary. And it's necessary  
17 for the motion.

18 THE COURT: Yeah. I'm just trying to ferret out the  
19 procedural position that's being asserted here. And I don't  
20 have the case cites off the top of my brain, but there is  
21 authority from at least the Northern District judges, if not  
22 the Fifth Circuit, saying in a 12(b)(6) motion I can take  
23 judicial notice of items in the record. And then, you know,  
24 there -- I know there's Fifth Circuit authority saying I can go  
25 beyond the four corners in a 12(b) context if it's just basic,

1 you know, explaining things that are in allegations. You know,  
2 such as --

3 MR. SBAITI: May I address that, Your Honor?

4 THE COURT: -- such as if a contract is in dispute,  
5 okay. Like there's no way you can have a cause of action under  
6 the contract and here's the contract. So I'm just trying to  
7 nail down your procedural position here.

8 MR. SBAITI: Your Honor, the distinction I was trying  
9 to make that I don't think I put as artfully as I might be able  
10 to put now is in a 12(b)(6) if there's a contract, as you said,  
11 if there's a legal document, a contract and order that's  
12 integral to the case, Your Honor can take judicial notice of  
13 that. Generally, a court can take judicial notice of filings  
14 in a bankruptcy, the fact that they were filed.

15 So the transcripts, which Your Honor can't take  
16 judicial notice of, is the truth of those. And that was what I  
17 was objecting to is it's one thing for him to say an objection  
18 was filed and therefore, because an objection was filed, that  
19 should be it. That was your only chance. I'm not saying Mr.  
20 Morris can't make that argument.

21 But when he goes beyond the fact of the filing or the  
22 fact that there was a transcript or the fact that there was a  
23 deposition and starts to read from the depositions or read from  
24 the filings and say this is what those mean, that goes against  
25 the 12(b)(6) parameters because, number one, now it's

1 substantive evidence and not simply a judicial notice of  
2 something that's right there in front of the Court, i.e.,  
3 something on its own docket. Because those statements and the  
4 interpretation of those statements are subject to credibility  
5 findings. They're subject to clarification. They're subject  
6 to rebuttal. That's the purpose of discovery.

7           And so if Your Honor -- and Mr. Morris is right.  
8 Usually, res judicata involves knowing what happened in the  
9 prior proceedings. So if all he wants to do is rest on the  
10 fact that an objection was filed by CLO Holdco and maybe even  
11 other people, and that should be it and he thinks that's enough  
12 for Your Honor to say res judicata applies, then I don't think  
13 we have a problem. It's when he goes beyond that and says,  
14 Your Honor, these people must have known and this is what they  
15 meant by their argument, that's what I'm asking Your Honor not  
16 to consider. And if Mr. Morris wants you to consider that,  
17 that's a summary judgment motion and we should have the  
18 opportunity to do discovery at the very least into the issues  
19 he has now raised as supporting his res judicata defense which  
20 he has the burden of proof on.

21           MR. MORRIS: Your Honor, this is one of the strangest  
22 arguments I have ever heard. I'm allowed to offer the Court  
23 and the Court is allowed to accept the documents, but I'm not  
24 allowed to read them. I'm not allowed to make arguments. I  
25 don't understand what that even means. If it were a contract,

1 I would be allowed to put the contract in front of Your Honor,  
2 but I wouldn't be able to argue why the contract doesn't say  
3 what the Plaintiff says. I don't get it.

4 THE COURT: Okay.

5 MR. MORRIS: That's --

6 THE COURT: Just I've heard enough on this. I don't  
7 think we have moved into Rule 12(e), that realm of me needing  
8 to treat this as a motion for summary judgment. I think the  
9 so-called evidence, the appendix that was attached to the  
10 motion as well as the appendix that was attached to Plaintiffs'  
11 response, it's stuff that I can take judicial notice of that's  
12 in the record of this Court and I can look at it. You know, it  
13 is what it is, the record of this Court.

14 All right. So I have nine people waiting in  
15 chambers. I'm trying to figure out should I take a break now  
16 or are you fairly close to wrapping up. Either answer is fine,  
17 Mr. Sbaiti. I just need to figure out who I make wait here.

18 MR. SBAITI: I have -- oh, I'm sorry. I didn't mean  
19 to interrupt you, Your Honor. I was just going to say I have  
20 five minutes left, but I know Mr. Morris probably wants to come  
21 back. So if you want to break now and we can come back at  
22 whenever the Court wants us to, we can do so.

23 THE COURT: All right. Why don't you make your final  
24 five minutes and then we'll take a break?

25 MR. SBAITI: Okay. Thank you, Your Honor.

1 I just wanted to address some of the arguments that  
2 Mr. Morris raised in his argument. The first thing is -- and I  
3 addressed this in part -- but Mr. Morris makes a big deal about  
4 paragraph 127 of the complaint and essentially suggests that  
5 we're the -- or that Mr. Dondero is the perpetrator of a  
6 nefarious scheme. Whereas, what the pleading actually says,  
7 and I again encourage Your Honor to re-read -- to read it  
8 specifically, is that Mr. Dondero warned Mr. Seery not to trade  
9 in the stock and not to make any transactions because the stock  
10 was going to appreciate in value.

11 That has two implications for us, Your Honor. Number  
12 one, it means Mr. Seery was a tippee of insider information,  
13 and number two, it means that Mr. Seery, if he did trade on  
14 that information or if he did pass that information on to  
15 someone else, that is a problem from the Advisers Act  
16 standpoint, which is really the only purpose of saying that.

17 While paragraph 127 also says that that should have  
18 caused Mr. Seery to revalue the NAV of HCLOF, it does not state  
19 and we did not plead that the entire value of HCLOF is tied to  
20 the MGM stock. So the insinuation that that somehow gave us  
21 inside information about what the true value of HCLOF was and  
22 we should have known or that Mr. Dondero should have known is  
23 simply untrue.

24 The other argument Mr. -- that Mr. Morris likes to  
25 harp on is that CLO Holdco withdrew its argument, but he



1 characterizes Mr. Kane's withdrawal testimony -- as he says,  
2 Mr. Kane admitted that CLO Holdco lacked the superior right to  
3 obtain the HarbourVest. If you read the very language that was  
4 highlighted on Mr. Morris' slide, that's not what Mr. Kane  
5 says. Mr. Kane says, "We've gone back to the drawing board.  
6 We've read your reply. And my client has given me permission  
7 to withdraw the argument or withdraw the objection." That's  
8 all he said. There was not an admission that he was wrong.  
9 There was not an admission that they had made a mistake. There  
10 was simply an admission that they decided to withdraw the  
11 objection for whatever reason.

12           Lastly, on the specific claims --

13           THE COURT: That's not an accurate description of the  
14 record. He said he looked at --

15           MR. SBAITI: Your Honor, I was reading it along with  
16 him.

17           THE COURT: -- Guernsey Law. And I don't know if his  
18 words were deep dive.

19           MR. SBAITI: Yeah.

20           THE COURT: But he had looked at the agreements  
21 extensively. That's just not what he said.

22           MR. SBAITI: And he said he was with -- Your Honor,  
23 he said he was withdrawing. He didn't say we were wrong. He  
24 didn't say we don't have a claim. What he said was, "We're  
25 withdrawing the objection."

1 THE COURT: After doing an extensive look at the  
2 agreements in Guernsey Law, okay, so.

3 MR. SBAITI: Sure. But, Your Honor, he might have --  
4 he could just as easily thought we have a chance, but it's not  
5 a good one. And frankly, we'll be here for 20 days and we're  
6 withdrawing it for that reason because we'll live to fight  
7 another day. Your Honor, there's an innumerable number. To  
8 simply say that he admitted that they didn't have a correct  
9 claim, it's just he didn't say that. That's all. That's the  
10 only point I'm making.

11 Your Honor, I don't disagree with the debtor that the  
12 Court's exculpation clause gets rid of the negligence claim  
13 which was obviously filed before the effective date, so that  
14 claim is gone.

15 And I think the last argument that Mr. Morris makes  
16 on the RICO claim is the federal court, the Supreme Court  
17 standard for pleading a RICO claim, that acts that only  
18 continue for a few weeks are not -- don't set out a RICO claim.  
19 Your Honor, in our response to that, we actually submitted an  
20 amended complaint that shows that the type of acts we're  
21 talking about, the pattern of the debtor using its investor  
22 vehicles assets to liquidate is a long pattern and practice  
23 than simply the HarbourVest suit. And so, we move to amend on  
24 that basis to satisfy that pleading defect, which is the main  
25 one that they focused on.

1 That's all I have, Your Honor.

2 THE COURT: All right. Thank you.

3 We're going to take a 15 minute break and come back.

4 I'll ask Mr. Jordan and Mr. Bessette did they have anything  
5 they wanted to say today. I know they joined in the debtor's  
6 motion. And then we'll let Mr. Morris have rebuttal.

7 All right. So we'll be back in 15 minutes.

8 THE CLERK: All rise.

9 MR. MORRIS: Thank you, Your Honor.

10 (Recess at 12:05 p.m./Reconvened at 12:23 p.m.)

11 THE CLERK: All rise.

12 THE COURT: All right. Please be seated.

13 We're back on the record in Charitable DAF v.  
14 Highland Capital. All right. So I promised I was going to go  
15 back to counsel for Highland CLO Funding, Ltd. So Mr. Jordan,  
16 Mr. Bessette, is there anything you wanted to say for oral  
17 argument?

18 MR. JORDAN: Thank you, Your Honor. John Jordan on  
19 behalf of HCLOF.

20 Our points are two procedural points. The first is  
21 as the Court anticipated, in our motion to dismiss filed back  
22 in August, we joined in the motion to dismiss of Highland. And  
23 so to the extent that the Court after deliberation is inclined  
24 to grant that motion, we would ask that as a joining party,  
25 HCLOF be pulled along with that.

1           The second procedural point is that back in our  
2 motion to dismiss, we pointed out that the complaint does not  
3 actually allege anything against HCLOF. In the story, we're  
4 essentially the football and neither Oklahoma nor UT. And we  
5 pointed that out as an additional argument to what you've heard  
6 today. That motion was never responded to. The deadline by  
7 agreement was extended to October 11th. And the lack of  
8 response was, we believe, not inadvertent but simply an  
9 acknowledgment that HCLOF is not a party that anything is being  
10 claimed against.

11           It particularly makes sense since effectively and in  
12 rough numbers, they're half owned by both sides. So for every  
13 dollar that HCLOF spends hanging around the case, the parties  
14 are paying essentially 100 cents collectively. So for that  
15 reason, we would ask, and subject to Mr. Sbaiti's input,  
16 whether the Court would ask us or direct us to upload an order  
17 granting our motion as unopposed. We just feel like we don't  
18 have any role in this case.

19           THE COURT: All right.

20           Mr. Sbaiti, what about that?

21           MR. SBAITI: Your Honor, they were originally added  
22 as a nominal party. And as a nominal party, because of the  
23 potential need to have a derivative action, I think that based  
24 upon Highland's arguments and the arguments that we had, I  
25 don't think the derivative action is necessary for us to

1 maintain on a go-forward basis. And so we don't oppose them  
2 being dismissed.

3 THE COURT: All right. Then I assume, Mr. Morris,  
4 you don't have any problem with this, correct?

5 MR. MORRIS: No, Your Honor.

6 THE COURT: Okay. So I'll look for the parties to  
7 submit an agreed order of dismissal of HCLOF after the hearing.  
8 All right?

9 MR. JORDAN: Thank you, Your Honor.

10 THE COURT: All right. Mr. Morris, you get the last  
11 word.

12 MR. MORRIS: Thank you, Your Honor. I hope to be  
13 relatively brief. I really just want to focus on the arguments  
14 concerning whether or not the order that was entered by this  
15 Court was an order that was entered on the merits.

16 As the Court is well aware, a 9019 motion filed by a  
17 debtor is done so on notice. It is to give all parties in  
18 interest an opportunity to be heard, not just as to whether or  
19 not the debtor meets its burden of proof under Rule 9019 but  
20 whether or not the Court can find, as it must, that the  
21 proposed settlement is in the best interest of the estate.

22 The purpose of -- I mean that is the purpose of the  
23 giving notice so that everybody has a chance to be heard. The  
24 questions that the Court asked, the questions that every  
25 bankruptcy court asks in a 9019 is can the debtor do this deal,

1 should the debtor do this deal, is it in the best interest of  
2 the estate to do this deal.

3 And, you know, the idea that a 9019 order is somehow  
4 res judicata only to the parties to a settlement is just  
5 something that doesn't make any sense to me because it  
6 abrogates so many rules that exist that allows and encourages  
7 and requires parties who have objections to be heard.

8 Mr. Sbaiti's clients filed an objection. They  
9 initiated a contested matter. They obtained rights. They were  
10 litigants. They are litigants in a contested matter where  
11 they're required to tell the Court what objections they have to  
12 the settlement, and they did that.

13 Mr. Sbaiti, you know, told me that I wasn't allowed  
14 to characterize the words that are used in the documents that  
15 have now been admitted by the Court. And, yet, I heard him say  
16 that maybe Mr. Kane (phonetic) really meant to tell Your Honor  
17 that he was withdrawing the claim because he was going to save  
18 it for another day.

19 I'd just ask the Court to look at the transcript. I  
20 don't have to interpret it at all. And I'd ask the Court to  
21 read the words. I can put them back up on the screen, but  
22 they're pretty short. It's at Pages 7 and 8 of the transcript  
23 of what Mr. Kane told you and what you said in response. It's  
24 on the page, not my interpretation, and what the import of that  
25 was.



1 Mr. Sbaiti believes, I guess, if one is allowed to  
2 engage in such conduct without consequence, that one is allowed  
3 to allow to file objections, cause the Court and the litigants  
4 to participate, to give discovery, to write briefs, to do  
5 analyses, withdraw it on the basis of their own good faith  
6 analysis of Guernsey law of the documents and somehow say it's  
7 irrelevant. Not what the law is, not what res judicata is  
8 intended to do.

9 He should have put all of his cards on the table. In  
10 fact, I think that Mr. Kane believed he was putting all of his  
11 cards on the table because that's what he did. He filed a very  
12 comprehensive objection. He asserted a right to the  
13 opportunity that the debtor was proposing to take in the 9019  
14 motion. That's what he was doing. He was objecting on the  
15 basis that he claimed his client had a superior right to this  
16 asset.

17 And he didn't -- like I said earlier, Your Honor, I  
18 don't think he would be permitted, I don't think these claims  
19 would fly today if no objection was filed. But the fact that  
20 there was renders, I think, indisputable that there was a  
21 finding on the merits, right. And the only reason that the  
22 Court didn't rule on Mr. Kane's motion, the only reason the  
23 Court didn't rule on it is because Mr. Kane withdrew it.

24 Is that really the way this process is supposed to  
25 work, that one can tell the Court that after a review of the

1 documents, I'm going to withdraw the objection and then file a  
2 claim for damages three months later with a different client,  
3 with a different control person, with a different lawyer?

4 That's okay under doctrine of res judicata? I don't think so.

5           They had a full and fair opportunity. The fact that  
6 this was somehow -- you know, they're denigrating the fact that  
7 this was a 9019 motion. There's not supposed to be a mini-  
8 trial. Your Honor had discretion as to what to do. Every  
9 court in every bench trial has discretion as to what to do and  
10 whether or not to overrule objections and whether or not to  
11 sustain [sic] objections. That's what judges to.

12           And there's nothing offensive about the fact that it  
13 happened in the context of a 9019 motion. They don't get to  
14 sit on their hands and wait to fight another day. If they  
15 believed that the debtor was exposing itself to liability, and  
16 that's what they actually say in the opposition, that's what I  
17 actually think they say in the complaint, accept it as true,  
18 they believe that the debtor created liability for itself by  
19 rendering -- by entering into this transaction.

20           Shouldn't they have raised their hand and said you  
21 can't do this deal, right? And the only response to that --  
22 they have to that is they had no idea about value. Paragraph  
23 127, Your Honor, Mr. Dondero, the architect of this complaint,  
24 as was proven on June 8th, knew very well about value. And it  
25 doesn't matter that it was only MGM. Your Honor commented on

1 that at the June 8th hearing in a different context. But  
2 everybody knows, right, it is. He sits on the board of MGM.

3 And I'm sorry if I called him a tippee instead of a  
4 tipper. But if this complaint goes forward, we'll dig into  
5 that real deep. But there's no reason it ought to, Your Honor.  
6 This case ought to be dismissed on res judicata grounds. It  
7 should be dismissed on judicial estoppel grounds. And it  
8 should be dismissed for all the reasons that I said in my  
9 argument in my brief.

10 But I do just want to close with one point, and that  
11 is to read from a case called Goldstein, which I think I  
12 alluded to earlier on this issue of whether there's a fiduciary  
13 duty that's owed by an advisor to an investor and a fund:

14 "At best, it is counterintuitive to characterize the  
15 investors in a hedge fund as the clients of the  
16 advisors. The advisor owes fiduciary duties only to  
17 the fund, not to the fund's investors."

18 There's a lot of discussion about fiduciary duties,  
19 Your Honor. But to the extent that they have any basis to  
20 defeat the motion to dismiss on res judicata or collateral  
21 estoppel grounds, we hope and we trust and we know the Court  
22 will review the case law vigorously to test some of the  
23 assertions to that.

24 I have nothing further, Your Honor.

25 THE COURT: All right. Well, thank you to all of

1 you.

2           As a reminder, I don't think you need it, but as a  
3 reminder, I am essentially acting as a magistrate for Judge  
4 Boyle in this action. And whichever way I go on whichever  
5 theories, I think she would expect a thorough write-up. It  
6 would, of course, be in the form of a report and recommendation  
7 for her to either adopt or not if I dispose of some or all of  
8 the counts in the lawsuit.

9           Even to the extent I deny dismissal, even though the  
10 rule typically does not require a court to make detailed  
11 findings and conclusions in connection with a denial of a  
12 motion to dismiss, again, since I'm sitting as a magistrate, I  
13 think Judge Boyle would expect some thorough explanations and  
14 reasoning from me.

15           So that's my way of saying I'm taking this under  
16 advisement. I am going to drill down on some of the cases that  
17 have been argued. I think some important issues are raised  
18 here that need some thorough reasoning.

19           So I will do the best to get this out without too  
20 much delay. I think there's probably zero chance, zero chance  
21 I'm going to get it done by the end of the year. We're just  
22 too behind with some of our under-advisements. But I will try  
23 earnestly to get it out fairly soon after the first of the  
24 year. All right?

25           Thank you. You all have a good holiday.

1 THE CLERK: All rise.  
2 (Proceedings concluded at 12:37 p.m.)

3 \* \* \* \* \*

4  
5 **C E R T I F I C A T I O N**

6 We, DIPTI PATEL, KAREN WATSON, CRYSTAL THOMAS, AND  
7 PATTIE MITCHELL, court approved transcribers, certify that the  
8 foregoing is a correct transcript from the official electronic  
9 sound recording of the proceedings in the above-entitled  
10 matter, and to the best of my ability.

11  
12 /s/ Dipti Patel

13 DIPTI PATEL, CET-997

14  
15 /s/ Karen Watson

16 KAREN WATSON, CET-1039

17  
18 /s/ Crystal Thomas

19 CRYSTAL THOMAS, CET-

20  
21 /s/ Pattie Mitchell

22 PATTIE MITCHELL

23 LIBERTY TRANSCRIPTS

DATE: November 23, 2021

24

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021**  
**APPELLANT RECORD**  
**VOLUME 10**



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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)	
Vol. 2	4	09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	5	10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000532	6	11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000537	7	11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
000558 Thru Vol. 8	8	11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)
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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)



TRANSCRIPT

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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

Texas Bar No. 24058096

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**Counsel for Appellants**




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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed July 16, 2020

  
United States Bankruptcy Judge

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

**In re:**

**HIGHLAND CAPITAL MANAGEMENT,  
L.P.,**

**Debtor.**

§  
§  
§  
§  
§  
§  
§

**Case No. 19-34054  
Chapter 11**

**Re: Docket No. 774**

**ORDER APPROVING DEBTOR'S MOTION UNDER  
BANKRUPTCY CODE SECTIONS 105(a) AND 363(b)  
AUTHORIZING RETENTION OF JAMES P. SEERY, JR., AS  
CHIEF EXECUTIVE OFFICER, CHIEF RESTRUCTURING OFFICER, AND  
FOREIGN REPRESENTATIVE NUNC PRO TUNC TO MARCH 15, 2020**

Upon the *Debtor's Motion under Bankruptcy Code Sections 105(a) and 363(b) for Authorization to Retain James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc To March 15, 2020* (the "Motion"),<sup>1</sup> and the

<sup>1</sup> All terms not otherwise defined herein shall be given the meanings ascribed to them in the Motion.

Court finding that: (i) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (ii) venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iv) due and sufficient notice of the Motion has been given; (v) entry into the Agreement was an exercise of the Debtor's sound business judgment; and (vi) it appearing that the relief requested in the Motion is necessary and in the best interests of the Debtor's estate and creditors; and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED, and DECREED** that:

1. The Motion is **GRANTED**.
2. Pursuant to sections 363(b) and 105(a) of the Bankruptcy Code, the Agreement attached hereto as **Exhibit 1** and all terms and conditions thereof are approved, *nunc pro tunc* to March 15, 2020.
3. The Debtor is hereby authorized to enter into and perform under the Agreement.
4. The Debtor is authorized to indemnify Mr. Seery pursuant to the terms of the Agreement. Mr. Seery is also entitled to any indemnification or other similar provisions under the Debtor's existing or future insurance policies, including any policy tails obtained (or which may be obtained in the future), by the Debtor. The Debtor and Strand are authorized to enter into any agreements necessary to execute or implement the transactions described in this paragraph. For avoidance of doubt and notwithstanding anything to the contrary in this Order, Mr. Seery shall be entitled to any state law indemnity protections to which he may be entitled under applicable law.

5. No entity may commence or pursue a claim or cause of action of any kind against Mr. Seery relating in any way to his role as the chief executive officer and chief restructuring officer of the Debtor without the Bankruptcy Court (i) first determining after notice that such claim or cause of action represents a colorable claim of willful misconduct or gross negligence against Mr. Seery, and (ii) specifically authorizing such entity to bring such claim. The Bankruptcy Court shall have sole jurisdiction to adjudicate any such claim for which approval of the Court to commence or pursue has been granted.

6. Notwithstanding anything in the Motion, the Agreement or the Order to the contrary, the Agreement shall be deemed terminated upon the effective date of a confirmed plan of reorganization unless such plan provides otherwise.

7. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation and/or implementation of this Order.

9. The Foreign Representative Order is hereby amended to substitute James P. Seery, Jr., as the chief executive officer, in place of Bradley S. Sharp, as the Debtor's Foreign Representative, Bermuda Foreign Representative and Cayman Foreign Representative. All other provisions of the Foreign Representative Order shall remain in full force and effect.

**###END OF ORDER###**

**EXHIBIT 1**

**Engagement Agreement**



[REDACTED]

June 23, 2020

CONFIDENTIAL

The Board of Directors of Strand Advisors, Inc.  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201

Re: Highland Capital Management L.P. (the "Company")

Dear Fellow Board Members:

This letter agreement ("Agreement") sets forth the terms and conditions of the engagement of the undersigned James P. Seery, Jr. ("I", "me" or "my"), as Chief Executive Officer ("CEO") and Chief Restructuring Officer ("CRO"), effective as of March 15, 2020 (the "Commencement Date"), by the Company and its affiliates to perform financial advisory services as detailed below.

I appreciate the trust you have placed in me by asking me to assume these roles and thank you for the opportunity to continue to work with you to restructure the Company.

Roles:

I will serve as the CEO and CRO of the Company during its Chapter 11 bankruptcy case (the "Bankruptcy Case") currently pending in the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court").

In those roles, I will be responsible for overall management of the business of the Company in Chapter 11 including, directing the reorganization and restructuring of the Company, monetization of assets, resolution of claims, development and negotiation of a plan of reorganization or liquidation, and implementation of such a plan.

My direct reports will include the individuals at the Company that currently report to the Board of Directors of Strand Advisors, Inc. (the "Board") or such other individuals employed by the Company as I determine should report to directly to me. In the event that the Board determines to restructure the reporting lines or functions of the Company, my direct reports will be amended in accordance with the Board approved restructuring.

At all times, I will remain a full member of the Board entitled to vote on all matters other than those on which I am conflicted.

I will devote as much time to this engagement as I determine is required to execute my responsibilities as CEO and CRO. I will have no specific on-site requirements in Dallas, but will be on site as much as I determine is necessary to execute my responsibilities as CEO and CRO, consistent with Covid-19 orders applicable to Dallas and New York City.

#### Limitations on Services

My services under this engagement are limited to those specifically noted in this Agreement and do not include legal, accounting, or tax-related assistance or advisory services. For the avoidance of doubt, I am not providing any legal services in connection with this engagement and will have not any duties as a lawyer to the Company, the Board, or any of the Company's employees. The accuracy and completeness of all information submitted to me by the Company are the sole responsibility of the Company, and I will be entitled to rely on such information without independent investigation or verification.

In my role as CEO and CRO, I will act as an independent professional contractor to the Company and will not be an employee of the Company. I will provide and pay for my own benefits, including medical benefits, by J.P Seery & Co. LLC or otherwise.

#### Fees and Expenses:

In consideration of my acceptance of this engagement and performance of the services pursuant to this Agreement, the Company shall pay the following:

##### 1. Compensation for Services:

- a. Base Compensation: As compensation for my services as CEO and CRO of the Company, the Company shall pay me \$150,000.00 per calendar month ("Base Compensation"). Base Compensation shall be due and payable at the start of each calendar month. Consistent with current Board compensation practice, invoices rendered by me to the Company are due and payable by the Company on receipt. Payment of the Base Compensation will be retroactive to March 15, 2020.
- b. Bonus Compensation/Restructuring Fee:
  - i. The Company has agreed to pay me a restructuring fee upon confirmation of either a Case Resolution Plan or a Monetization Vehicle Plan in each case as defined below (the "Restructuring Fee").
  - ii. Case Resolution Restructuring Plan
    1. On confirmation of any plan or reorganization or liquidation based on resolution of a material amount of the outstanding claims and their respective treatment, even if such plan includes (x) a debtor/creditor trust or similar monetization and claims resolution vehicle, (y) post-confirmation litigation of certain of the claims, and (z) post-confirmation monetization of debtor assets (a "Case Resolution Plan"):
      - a. \$1,000,000 on confirmation of the Case Resolution Plan;
      - b. \$500,000 on the effective date of the Case Resolution Plan; and
      - c. \$750,000 on completion of cash or property distributions to creditors as contemplated by the Case Resolution Plan.

iii. Debtor/Creditor Monetization Vehicle Restructuring Fee:

1. On confirmation of any plan or reorganization or liquidation based on a debtor/creditor trust or similar asset monetization and claims resolution vehicle that does not include agreement among the debtor and creditors on a material amount of the outstanding claims and their respective treatment at confirmation (a "Monetization Vehicle Plan"):
  - a. \$500,000 on confirmation of the Monetization Vehicle Plan;
  - b. \$250,000 on the effective date of the Monetization Vehicle Plan; and
  - c. A contingent restructuring fee to be determined by the board or oversight committee installed to oversee the implementation of any Monetization Vehicle Plan based on the CEO/CRO (or acting as trustee) based upon performance under the plan after all material distributions under the Monetization Vehicle Plan are made.
  
2. Out-of-Pocket Expenses: In addition to the Base and Bonus Compensation, I shall be entitled to reimbursement for actual and reasonable out-of-pocket expenses ("Expenses") incurred in connection with the provision of services hereunder. Expenses will be billed along with Base Compensation and shall be paid by the Company at the same time. Expenses will be generally consistent with expenses incurred to date as a member of the Board.

Bankruptcy Court Approval

Notwithstanding anything herein to the contrary, I understand that this Agreement is contingent, in all respects, on the approval of the Bankruptcy Court. I also understand that the Company will seek approval of this Agreement in stages and that the Company will first seek approval of my retention as CEO and CRO and the payment of the Base Compensation and will defer seeking Bankruptcy Court approval of the Restructuring Fee until there have been further developments in the Bankruptcy Case.

Conflicts and Other Engagements

I am not aware of any potential conflicts of interest based on my understanding of the various parties involved in this matter to date.

The Company is aware that this engagement is not an exclusive engagement of my time, and that I have and will continue to have other business engagements and investments unrelated to the Company. Nothing in this Agreement or otherwise precludes me from representing or working with or for any other person or entity in matters not directly related to the services being provided to the Company under this Agreement. However, I will not take on any engagements directly adverse to the Company during the term of this engagement.

Privilege

I understand that in the course of this engagement, I may become party to or my services may become part of work product of legal counsel to the Company (the Company's in-house and outside counsel are collectively referred to as "Counsel"), and all communications between Counsel and me relating to this engagement shall be protected from disclosure to third parties under the attorney work product doctrine and/or the attorney-client privilege, and, therefore, shall be treated by me as privileged and confidential. I further understand that the Company has the exclusive right to waive the attorney-client privilege, and Counsel has the exclusive right to waive the protections afforded under the attorney work-product doctrine.

#### Termination of Engagement

This Agreement may be terminated at any time by either the Company or by me upon two weeks advance written notice given to the other party. The termination of this Agreement shall not affect my right to receive, and the Company's obligation to pay, any and all Base Compensation and Expenses incurred (even if not billed) prior to the giving of the termination notice; provided, however, that (i) if this Agreement is terminated by me, the amount of Base Compensation owed shall be calculated based on the actual number of days worked during the applicable month and I will return any Base Compensation received in excess of such amount and (ii) if this Agreement is terminated by the Company, Base Compensation shall be deemed fully earned as of the first day of any month. Bonus Compensation shall be earned by me immediately upon termination of me by the Company; provided, however, I shall not be entitled to Bonus Compensation if (a) the Bankruptcy Case is converted to chapter 7 or dismissed; (b) a chapter 11 trustee is appointed in the Bankruptcy Case; (c) I am terminated by the Company for Cause; or (d) I resign prior to confirmation of a plan or court approval of a sale as described in the Fees and Expense/Compensation for Services section hereof. For purposes of this Agreement, "Cause" means any of the following grounds for termination of my engagement, in each case as reasonably determined by the Board within 60 days of the Board becoming aware of the existence of the event or circumstance: (A) fraud, embezzlement, or any act of moral turpitude or willful misconduct on my part; (B) conviction of or the entry of a plea of nolo contendere by me for any felony; (C) the willful breach by me of any material term of this Agreement; or (D) the willful failure or refusal by me to perform my duties to the Company, which, if capable of being cured, is not cured on or before fifteen (15) days after my receipt of written notice from the Company.

#### Conditional Requirement to Seek Further Bankruptcy Court Approval of Agreement

The official committee of unsecured creditors in the Bankruptcy Case (the "Committee") may, upon two weeks advance written notice to the Company, require the Company to file a motion with the Bankruptcy Court on normal notice seeking a continuation of this Agreement and if such motion is not filed, this Agreement will terminate at the expiration of such two week period. If the Company files such motion, I will be entitled to my Base Compensation through and including the date on which a final order is entered on such motion by the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Committee may not deliver such notice to the Company until a date which is more than ninety days following the date the Bankruptcy Court enters an order approving this Agreement.

### Indemnification

As a material part of the consideration to me under this Agreement, the Company agrees (i) to indemnify and hold harmless me and any of my affiliates (the “Indemnified Party”), to the fullest extent lawful, from and against any and all losses, claims, costs, damages or liabilities (or actions in respect thereof), joint or several, arising out of or related to this Agreement, my engagement under this Agreement, or any actions taken or omitted to be taken by me or the Company in connection with this Agreement and (ii) to reimburse the Indemnified Party for all expenses (including, without limitation, the reasonable fees and expenses of counsel) as they are incurred in connection with investigating, preparing, pursuing, defending, settling or compromising any action, suit, dispute, inquiry, investigation or proceeding, pending or threatened, brought by or against any person (including, without limitation, any shareholder or derivative action, or any fee dispute), arising out of or relating to this Agreement, or such engagement, or actions. However, the Company shall not be liable under the foregoing indemnity and reimbursement agreement for any loss, claim, damage or liability which is finally judicially determined by a court of competent jurisdiction to have resulted primarily from the willful misconduct or gross negligence of the Indemnified Party.

The indemnification and insurance currently covering my role as a director shall be extended to me and fully cover me as provided therein in my roles as CEO and CRO.

### Miscellaneous

This Agreement (a) constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any other communications, understandings or agreements among the parties with respect to the subject matter hereof, and (b) may be modified, amended or supplemented only by written agreement among all the parties hereto.

This Agreement is subject to approval by the Bankruptcy Court. As part of such approval the Company shall request that any such order approving this Agreement contain a provision extending the protections afforded to me as a Board Member pursuant to Paragraph 10 of the Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] to my role as CEO and CRO, which Order prohibits the commencement of any action against me without first obtaining Bankruptcy Court approval to initiate such action.

This Agreement and all controversies arising from or related to performance hereunder shall be governed by and construed in accordance with the laws of the State of New York. The parties hereby submit to the jurisdiction of and venue in the federal and state courts located in New York City and waive any right to trial by jury in connection with any dispute related to this Agreement.

This Agreement shall be binding upon the parties and their respective successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement.

Failure of any party at any time to require performance of any provision of this Agreement shall not affect the right to require full performance thereof at any time thereafter, and the waiver by any party of a breach of such provisions shall not be taken as or held to be a waiver of any subsequent breach or as nullifying the effectiveness of such provision.

Notices provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered by hand or overnight courier or three days after it has been mailed by United States registered mail, return receipt requested, postage prepaid, addressed to the respective address set forth above in this Agreement, or to such other address as either party may have furnished to the other in writing in accordance herewith.

This Agreement and my rights and duties hereunder shall not be assignable or delegable by me.

The Company may withhold from any amounts payable under this Agreement such Federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

This Agreement may be executed (including by electronic execution) in any number of counterparts, each of which when so executed shall be deemed an original, but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by electronic mail shall have the same force and effect as the delivery of an original executed counterpart of this Agreement.

Please confirm the foregoing is in accordance with your understanding by signing and returning a copy of this Agreement, whereupon it shall become binding and enforceable in accordance with its terms.

Very truly yours,



James P. Seery, Jr.

AGREED AND ACCEPTED

HIGHLAND CAPITAL MANAGEMENT L.P.

By: Strand Advisors, Inc., its general partner

---

John Dubel  
Director  
Strand Advisors, Inc.

---

Russell Nelms  
Director  
Strand Advisors, Inc.



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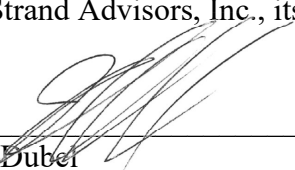
Very truly yours,

James. P. Seery, Jr.

AGREED AND ACCEPTED

**HIGHLAND CAPITAL MANAGEMENT L.P.**

By: Strand Advisors, Inc., its general partner

  
\_\_\_\_\_  
John Dubel  
Director  
Strand Advisors, Inc.

\_\_\_\_\_  
Russell Nelms  
Director  
Strand Advisors, Inc.

002173

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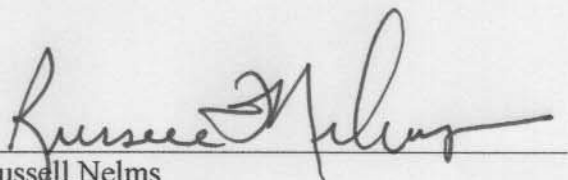
James. P. Seery, Jr.

AGREED AND ACCEPTED

**HIGHLAND CAPITAL MANAGEMENT L.P.**

By: Strand Advisors, Inc., its general partner

\_\_\_\_\_  
John Dubel  
Director  
Strand Advisors, Inc.

  
\_\_\_\_\_  
Russell Nelms  
Director  
Strand Advisors, Inc.

002174

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

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In Re: ) **Case No. 19-34054-sgj11**  
)  
)  
HIGHLAND CAPITAL ) Dallas, Texas  
MANAGEMENT, L.P., ) July 14, 2020  
) 1:30 p.m. Docket  
Debtor. )  
) APPLICATIONS TO EMPLOY JAMES  
) P. SEERY AND DEVELOPMENT  
) SPECIALISTS, INC. (774, 775)  
)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,  
UNITED STATES BANKRUPTCY JUDGE.

WEBEX/TELEPHONIC APPEARANCES:

For the Debtors: Jeffrey N. Pomerantz  
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For the Debtors: Zachery Z. Annable  
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HAYWARD & ASSOCIATES, PLLC  
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1 APPEARANCES, cont'd.:

2 For the Official Committee Matthew A. Clemente  
3 of Unsecured Creditors: SIDLEY AUSTIN, LLP  
4 One South Dearborn Street  
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(312) 853-7539

5 For the Official Committee: Paige Holden Montgomery  
6 of Unsecured Creditors: SIDLEY AUSTIN, LLP  
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7 Dallas, TX 75201  
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8 For Acis Capital Rakhee V. Patel  
9 Management GP, LLC: WINSTEAD, P.C.  
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11 For Acis Capital Brian Patrick Shaw  
12 Management GP, LLC: ROGGE DUNN GROUP, P.C.  
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14 For Redeemer Committee of Mark A. Platt  
15 the Highland Crusader FROST BROWN TODD, LLC  
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16 (214) 580-5852

17 For Redeemer Committee of Terri L. Mascherin  
18 the Highland Crusader JENNER & BLOCK, LLP  
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19 Chicago, IL 60654-3456  
(312) 923-2799

20 For Redeemer Committee of Marc B. Hankin  
21 the Highland Crusader JENNER & BLOCK, LLP  
Fund: 919 Third Avenue  
22 New York, NY 10022-3098  
(212) 891-1600

23

24

25

1 APPEARANCES, cont'd.:

2 For UBS Securities, LLC: Andrew Clubok  
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8 For UBS Securities: Kimberly A. Posin  
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13 For Certain Employees: David Neier  
14 WINSTON & STRAWN, LLP  
15 200 Park Avenue  
16 New York, NY 10166  
17 (212) 294-6700

18 Recorded by: Michael F. Edmond, Sr.  
19 UNITED STATES BANKRUPTCY COURT  
20 1100 Commerce Street, 12th Floor  
21 Dallas, TX 75242  
22 (214) 753-2062

23 Transcribed by: Kathy Rehling  
24 311 Paradise Cove  
25 Shady Shores, TX 76208  
(972) 786-3063

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

1                   DALLAS, TEXAS - JULY 14, 2020 - 1:34 P.M.

2                   THE COURT: ... to get lawyer appearances. First,  
3 for the Debtor, do we have some Pachulski lawyers on the  
4 phone? Please make your appearance.

5                   MR. POMERANTZ: Good morning, Your Honor. It's  
6 Jeffrey Pomerantz; Pachulski Stang Ziehl & Jones. Also with  
7 me are John Morris, and then listening in are Greg Demo and  
8 Ira Kharasch.

9                   THE COURT: All right. Thank you all. And do we  
10 have any Hayward lawyers on the phone?

11                  MR. ANNABLE: Yes, Your Honor.

12                  THE COURT: I presume that was Mr. Annable.

13                  MR. ANNABLE: Yes, Your Honor. Sorry. My mic's not  
14 picking up. It's Zachery Annable and Melissa Hayward --

15                  THE COURT: All right.

16                  MR. ANNABLE: -- as local counsel for the Debtor.

17                  THE COURT: Okay. Thank you. For the Unsecured  
18 Creditors' Committee, who do we have from Sidley Austin?

19                  MR. CLEMENTE: Good afternoon, Your Honor. Matthew  
20 Clemente from Sidley Austin, and Paige Montgomery is also on  
21 the phone.

22                  THE COURT: All right. Thank you. All right. I'll  
23 go to some of our usual appearances. Do we have lawyers for  
24 the Redeemer Committee this afternoon? (No response.) All  
25 right.



1 MS. MASCHERIN: Yes. Excuse me, Your Honor.

2 THE COURT: Yes?

3 MS. MASCHERIN: This is Terri Mascherin. I wasn't  
4 sure whether I had the microphone on mute or not.

5 THE COURT: Okay.

6 MS. MASCHERIN: I apologize. Terri Mascherin, Jenner  
7 & Block. My colleague, Marc Hankin, is on the phone. And I  
8 believe that Mark Platt is also on the line.

9 THE COURT: All right. Thank you. What about UBS?  
10 Anyone wanting to appear for UBS?

11 MR. CLUBOK: Yes. Good afternoon, Your Honor. This  
12 is Andrew Clubok from Latham & Watkins, LLP. And my partner,  
13 Kimberly Posin, is on as well.

14 THE COURT: Okay. Thank you. What about for Acis?  
15 Any lawyers appearing for Acis?

16 MS. PATEL: Yes. Good afternoon, Your Honor. Rakhee  
17 Patel of the Winstead firm and Brian Shaw of the Rogge Dunn  
18 Group appearing on behalf of Acis.

19 THE COURT: All right. Do we have Mr. Lynn or Mr.  
20 Bonds for James Dondero? (No response.) Maybe not. All  
21 right. Is there anyone else who wishes to appear for today's  
22 hearings?

23 MR. NEIER: Good afternoon, Your Honor. David Neier  
24 of Winston & Strawn making a reappearance, but this time for  
25 several employees of Highland: Mr. Leventon, Mr. Sevilla, Mr.

1 Ellington, several others.

2 THE COURT: Oh, okay. Thank you. Any other  
3 appearances today?

4 (No response.)

5 THE COURT: All right. I'll assume everyone else is  
6 just going to observe.

7 Well, we have two employment applications. Mr. Pomerantz,  
8 how did you want to proceed on those?

9 MR. POMERANTZ: So, Your Honor, we have the two  
10 motions to present, Your Honor. I'm happy to say that neither  
11 of them are opposed.

12 Before I present the motions to Your Honor, I wanted to  
13 ask if Your Honor would like to address the mediation issues  
14 at the conclusion of the hearing or prior to the presentation  
15 of the motions.

16 THE COURT: At the conclusion. Thank you.

17 MR. POMERANTZ: Thank you, Your Honor.

18 Your Honor, the first motion on the docket today is a  
19 Motion to Appoint James Seery as the Debtors' chief executive  
20 officer and chief restructuring officer, effective as of March  
21 15th, which is about the time that Mr. Seery began performing  
22 the services as the chief executive officer.

23 While there's a good argument that the retention of a  
24 chief executive officer is in the ordinary course of business  
25 and does not require court approval, the Debtor, out of an

1 abundance of caution, filed the motion, and the motion seeks  
2 approval of the agreement which is attached to the motion.

3 The second motion, Your Honor, is a Motion to Approve the  
4 Retention of DSI as the Debtors' Financial Advisor. And as  
5 the Court is aware, Mr. Sharp, a managing director of DSI, was  
6 approved as the Debtors' Chief Restructuring Officer pursuant  
7 to this Court's January 10th order.

8 Although Mr. Seery is proposed to replace Mr. Sharp as the  
9 Debtors' Chief Restructuring Officer, Mr. Seery still requires  
10 the financial assistance and advisory support that DSI has  
11 been providing to him, the Board, and the Debtor for several  
12 months.

13 While each of these motions, as I mentioned, Your Honor,  
14 are unopposed, we plan to put on the testimony of James Seery,  
15 John Dubel, and Brad Sharp to provide the Court with the  
16 evidentiary basis to support the relief that is requested.  
17 And with the testimony, Your Honor, we intend to accomplish  
18 several things.

19 First, Your Honor, in light of our exchange at the hearing  
20 on July 8th, we thought it'd be appropriate for Mr. Seery to  
21 provide a more fulsome response to Your Honor regarding the  
22 nature and extent of the Debtors' operations and assets and  
23 the variety of significant activities that the Board in  
24 general and Mr. Seery as the chief executive officer has been  
25 performing over the last several months.

1           We think this is very important, Your Honor, given that  
2           the Debtor has substantial and multiple complex business  
3           operations that it oversees that are in -- that are in  
4           subsidiaries outside of Chapter 11 or are in entities managed  
5           by the Debtor and also not in Chapter 11. And the Court, we  
6           appreciate, especially in light of Your Honor's comments, does  
7           not have the benefit of seeing what is really going on. So  
8           we're hoping, by Mr. Seery's testimony, it will provide Your  
9           Honor with a much clear picture, and, quite frankly, a better  
10          job doing it than I was able to do last week.

11          Mr. Seery's testimony will support the need for the  
12          retention of the chief executive officer and why his  
13          particular background and qualifications made him the  
14          appropriate choice for the role.

15          Second, Mr. Dubel, as the chairman of the compensation  
16          committee of the Board, will testify regarding the process  
17          undertaken by the compensation committee that led to the  
18          conclusion to ask Mr. Seery to become the chief executive  
19          officer and the agreement -- under the terms and conditions  
20          set forth in the agreement.

21          Lastly, Mr. Sharp will testify regarding the activities he  
22          and DSI have been performing since the commencement of the  
23          case, the assistance they have been providing to Mr. Seery  
24          over the last few months, and how the nature and extent of the  
25          services they are providing will essentially remain the same

1 if Your Honor approves the motion to employ Mr. Seery.

2 Before I turn the virtual podium over to my partner, John  
3 Morris, to present the testimony, Your Honor, I thought I  
4 would provide the Court with a brief summary of the events  
5 leading to the Debtors' filing of the motion.

6 THE COURT: Okay.

7 MR. POMERANTZ: As Your Honor will recall, the Court  
8 entered an order on January 9th approving a settlement between  
9 the Debtor and the Committee, and a significant part of that  
10 settlement involved modifications to the Debtors' corporate  
11 governance that resulted in the installation of the  
12 Independent Board.

13 The term sheet that was attached in the settlement motion  
14 specifically contemplated that the Independent Board, in  
15 consultation with the Committee, would determine whether it  
16 was appropriate to retain a chief executive officer, and  
17 further went on to say that the chief executive officer could  
18 be a member of the Board.

19 And the retention of a chief executive officer was on  
20 everyone's minds from the beginning, because since Mr.  
21 Dondero's authority as the CEO of the Debtor was being  
22 terminated in connection with the settlement, the Debtor and  
23 the Committee contemplated that, in order to manage a dynamic  
24 and widespread asset management platform like Highland's, that  
25 the retention of a chief executive officer may very well be

1 necessary.

2 I will leave it to Mr. Seery and Mr. Dubel to explain to  
3 the Court what transpired during the early stages of the case  
4 and the decision-making process that led to Mr. Seery starting  
5 to act as the Debtors' chief executive officer. And I would  
6 also leave it to Mr. Dubel to discuss the sequence of events  
7 which led from the appointment of him as the chief executive  
8 officer through the filing of the motion that brings us here  
9 today, which events will include the establishment of a  
10 compensation committee; the commissioning of a report from the  
11 Debtors' compensation expert, Mercer; the procurement of the  
12 Debtors' [sic] and officers insurance coverage to cover Mr.  
13 Seery and Mr. Dubel; the negotiations over the (inaudible) of  
14 Mr. Seery; and lastly, the negotiations with the Committee  
15 which has resulted in the motion being fully consensual.

16 I'll also leave it to Mr. Seery to explain his personal --  
17 professional background and why he was qualified to fill that  
18 role.

19 The agreement, Your Honor, between Mr. Seery and the  
20 Debtor includes the following material provisions.

21 First, there would be base compensation at the rate of  
22 \$150,000 a month, retroactive to March 15th. And while Mr.  
23 Seery will remain on the Board as part of his role as the  
24 chief executive officer, the \$150,000 per month would cover  
25 his services not only as a CEO but also a member of the Board.



1 In other words, the Board fees that were agreed to back in  
2 January of \$60,000 a month, \$50,000 a month, and \$30,000 a  
3 month would be replaced by the \$150,000 a month commencing on  
4 March 15th.

5 While the compensation committee and Mr. Seery reached  
6 agreement on the structure of potential bonus compensation,  
7 the Committee has not agreed to that proposed structure. As a  
8 result, the compensation committee and Mr. Seery decided that  
9 approval sought in this motion would only be the monthly  
10 compensation and the other non-economic terms, but would not  
11 include the bonus compensation. Any bonus compensation sought  
12 to be paid to Mr. Seery would be pursuant to a separate motion  
13 filed, if at all, a lot later in the case.

14 The Committee was also uncomfortable with the open-ended  
15 nature of the agreement and wanted some control in being able  
16 to seek to terminate it. To accommodate the Committee, Mr.  
17 Seery and the Debtor agreed to the following: After 90 days  
18 from the date the Court enters an order approving this  
19 agreement, if the Court is inclined to do so, the Committee  
20 may provide the Debtor with notice that it does not want the  
21 agreement to continue. The Debtor would then have two weeks  
22 to file a motion on normal notice seeking to extend the date  
23 of the agreement, and Mr. Seery would be entitled to his base  
24 compensation until the Court ruled on the motion.

25 Also, the Committee asked us that be made clear in the

1 order, which we've done, that Mr. Seery's retention would  
2 terminate on the effective date on the plan, subject, of  
3 course, of his right to seek bonus compensation pursuant to a  
4 separate motion. The agreement also contains standard  
5 reimbursement and indemnification provisions.

6 Your Honor, those conclude my initial remarks. I'm happy  
7 to take questions. And then, at the appropriate time, I  
8 return it over to Mr. Morris, who will put on the testimony of  
9 Mr. Seery, Mr. Dubel, and Mr. Sharp.

10 THE COURT: All right. I'd like to pretty quickly  
11 get to the evidence. So, I'll ask: Does anyone have a  
12 burning desire to make an opening statement? If so, please  
13 let's keep it brief.

14 (No response.)

15 THE COURT: All right. I assume everyone is content  
16 to wait until the end and speak up in any way they want to  
17 speak up.

18 Mr. Morris, are you ready to call your witness?

19 MR. MORRIS: I am, Your Honor. Can you hear me right  
20 now?

21 THE COURT: I can. Thank you.

22 MR. MORRIS: Okay. Your Honor, this is John Morris  
23 from Pachulski Stang Ziehl & Jones for the Debtor. As the  
24 Debtors' first witness, we call James Seery.

25 THE COURT: All right. Mr. Seery, I need to swear

Seery - Direct

13

1 you in by video. So could you take your phone off mute and  
2 please raise your right hand. Can you say Testing 1, 2, so I  
3 know you're there?

4 MR. SEERY: Testing 1, 2.

5 THE COURT: All right.

6 JAMES P. SEERY, DEBTOR'S WITNESS, SWORN

7 THE COURT: All right. Thank you. Mr. Morris?

8 MR. MORRIS: Thank you, Your Honor. Before I begin  
9 my questioning of Mr. Seery, the Debtor had filed its witness  
10 list and its exhibit list. We provided copies of the exhibits  
11 to the Court and to the Committee, and I would like to just  
12 move into evidence Debtors' Exhibits 1 through 7 at this time.

13 THE COURT: All right. So I have in front of me  
14 Docket Entry No. 822 with Exhibits 1 through 7. Any  
15 objection? (No response.) All right. 1 through 7 are  
16 admitted.

17 (Debtors' Exhibits 1 through 7 are received into  
18 evidence.)

19 MR. MORRIS: Thank you, Your Honor. And just as an  
20 overview, so you have a sense of where we're going with Mr.  
21 Seery's testimony, I am going to begin with some very brief  
22 background questionings and then have Mr. Seery answer some  
23 questions concerning the overview of the company and the  
24 corporate structure of the company. You may have heard some  
25 of this before, but I think in the context of a motion such as

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Seery - Direct

14

1 the appointment of a CEO, I think it would be helpful to hear  
2 it all.

3 When I finish with that, we're going to move into the area  
4 of the Board and the work that the Board has done and Mr.  
5 Seery's work as a member of the Board.

6 And then we'll transition into really the meat of the  
7 discussion here, and that is what has he done in his capacity  
8 as CEO. And to be clear, he's not the CEO, he doesn't call  
9 himself the CEO, but he's functioned as the CEO, and I think  
10 that's the point that we want to present to the Court. And we  
11 want to present to the Court the fact that he functioned as a  
12 CEO really from day one of the process. And we're not going  
13 to get into, you know, every single thing he's done, because  
14 we'd be here for an awfully long time, but we do intend to  
15 highlight a couple of the transactions that he worked on and  
16 give you a sense of his role in trying to develop a plan and  
17 resolving claims.

18 And I think, with that, you'll have a better understanding  
19 of Mr. Seery, his role, and why we believe it's a proper  
20 exercise of the Debtors' business judgment to appoint him as  
21 CEO.

22 THE COURT: All right. Sounds good.

23 MR. MORRIS: All right.

24 DIRECT EXAMINATION

25 BY MR. MORRIS:

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Seery - Direct

15

1 Q Mr. Seery, can you hear me?

2 A I can. Can you hear me?

3 Q Yes, I can.

4 MR. MORRIS: Your Honor, just one other point. I  
5 have a legal assistant on the phone here. She's participating  
6 in the WebEx. Her name is La Asia Canty. La Asia is going to  
7 handle the exhibits when and if we need to put them up on the  
8 screen. So we've tried to practice that, and hopefully it  
9 will go smoothly, but I may turn to Ms. Canty from time to  
10 time with some help with the exhibits.

11 THE COURT: All right. Fine.

12 BY MR. MORRIS:

13 Q Okay. Mr. -- what is your current relationship to the  
14 Debtor?

15 A I'm an Independent Director of Strand, which is the  
16 general partner of the Debtor.

17 Q All right. And when did you become the Independent  
18 Director of Strand?

19 A On January 9th, along with John Dubel and Russ Nelms.

20 Q The Court has previously heard about your background, but  
21 from a high level, can you just hit the highlights for the  
22 Court as to your experience, et cetera?

23 A To go swiftly -- and if Your Honor wants me to go further,  
24 I certainly can -- I was a restructuring and finance lawyer  
25 for 10 years, handling virtually every type of restructuring

002189

Seery - Direct

16

1 matter as well as financing in distressed matters during that  
2 time.

3 In 1999, I went to the business side and I began to manage  
4 distressed assets at Lehman Brothers as well as a leverage  
5 finance business. That grew into my running the risky finance  
6 business as well as the loan business at Lehman globally,  
7 which included high-grade loans, high-yield loans, trading and  
8 sales of those products, a big part of distressed, all of  
9 restructuring, all of asset management, and all of the hedging  
10 of the portfolio that we had.

11 From there, I left Lehman with a small group and sold it  
12 to Barclay's. I moved on and ran a hedge fund with two former  
13 partners of mine who are the founding partners called River  
14 Birch Capital. It was a long-short credit fund; mostly  
15 credit, though we did structured finance as well, and we also  
16 handled some equities.

17 Q Okay. Let's spend a few minutes, as a preview, talking  
18 about the Debtor and its business. And let's start with the  
19 basics. Is there a way you can summarize the business of the  
20 Debtor?

21 A I think, from a high level, the best way to think about  
22 the Debtor is that it's a registered investment advisor. As a  
23 registered investment advisor, which is really any advisor of  
24 third-party money over \$25 million, it has to register with  
25 the SEC, and it manages funds in many different ways.

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1           The Debtor manages approximately \$200 million current  
2 values -- it was more than that at the start of the case -- of  
3 its own assets. It doesn't have to be a registered investment  
4 advisor for those assets, but it does manage its own assets,  
5 which include directly-owned securities; loans from mostly  
6 related entities, but not all; and investments in certain  
7 funds which it also manages.

8           In addition, the Debtor manages about roughly \$2 billion  
9 in -- \$2 billion in total managed assets, around \$2 billion in  
10 CLO assets, and then other entities, which are hedge funds or  
11 PE style.

12           In addition, the Debtor provides shared services for  
13 approximately \$6 billion of assets. Those are assets that are  
14 owned by related entities but not owned by Debtor-owned or  
15 managed entities. And those are a combination of back office  
16 services, which include timely reporting, asset management,  
17 legal and compliance support, trading and research support,  
18 but not the actual management of the assets.

19           The Debtors run -- and I think the way to think about it  
20 is on a functional basis; at least, that's the way I think  
21 about it -- and there's really six areas. There's corporate  
22 management; finance, accounting and tax; trading and research;  
23 private equity and fund investing; compliance and legal; and  
24 then structured equity, which really includes all of the CLO  
25 businesses.

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1 The goals of the Debtor generally are what you'd expect  
2 out of an asset manager. A little bit different than most  
3 because the Debtor does own assets, which is a little  
4 different than when money asset managers typically hold assets  
5 away from the asset manager. But number one, discharge  
6 Highland's, which I'll call Highland (inaudible), LP, duties  
7 to investors in the funds. Those are fiduciary duties under  
8 the Investment Advisors Act. Each day, you've got to make  
9 sure that you do that first and foremost.

10 Number two, create positive MPD in each of the funds that  
11 we manage, either through sales, purchases, or hedging.

12 Next, make sure that we report timely finances of our own  
13 assets, including in the funds, but also, to the third-party  
14 investors. Maximize the value of HCMLP's owned assets. And  
15 then operate as efficiently as possible for the lowest cost.

16 That's essentially how the Debtor -- how we think about  
17 the Debtor from a functional perspective. It's got about 70  
18 employees laid out in those areas that I mentioned, and each  
19 of those employees every day usually think about those goals  
20 and try to discharge their duties by focusing on those goals.

21 Q Thank you, Mr. Seery. And can you describe for the Court  
22 how those 70 or so employees are organized? Is there an  
23 internal corporate structure that you're working with?

24 A Yeah. The way -- the way -- I apologize. The way we  
25 think about it is, as I said, corporate management, which is

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1 really HR and overseeing the function that it's filling every  
2 day, that's been really -- because Mr. Dondero was removed  
3 from management. It used to all roll up to him. That's been  
4 effectively rolling up to me since February.

5 Finance, accounting, and tax. Each of these businesses  
6 every day require certain amounts of liquidity. Each of them  
7 have requirements that they have to pay out to investors.  
8 Each of them have expenses. And all of them have different  
9 kinds of tax either obligations or reporting. Those are  
10 managed by Frank Waterhouse as the CFO. (inaudible), sorry.

11 Trading and research. With respect to the assets, they're  
12 not -- they're not static assets. Many of them do get traded  
13 on a regular basis. A gentleman, Joe Sowin, heads up the  
14 trading of the liquid assets. John Povish (phonetic) heads up  
15 the research and the trading of the more illiquid assets, but  
16 not PE. In addition, we have PE assets that require some  
17 management every day, including Board seats. That's a  
18 gentleman by the name of Cameron Baynard, and also he will  
19 fund investments in that area. J.P. Sevilla is responsible  
20 for working with Cameron on those investments and leading that  
21 team.

22 Importantly, because of the nature of what the Debtor  
23 does, the fiduciary obligations, as well as the  
24 responsibilities to each investor and the legal overlay, we  
25 have a robust compliance and legal department. That's headed

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1 by Thomas Surgent and Scott Ellington. Scott: more focused  
2 on transactional issues with respect to legal. He is actually  
3 general counsel. Everything that has do with compliance, the  
4 interrelatedness of the funds, trading between funds or  
5 positions that are shared across funds, which are many, runs  
6 through Thomas Surgent and his team.

7 And finally, structured equity. Sitting on top of the  
8 structured finance business that we have, understanding those  
9 assets, particularly of two billion-ish assets in CLOs, that's  
10 headed by Hunter Covitz.

11 Q Can you describe for the Court your interaction with each  
12 of the department heads that you just identified?

13 A Well, depending on the nature of the issue each day, I  
14 have at least -- I'd say generally at least weekly contact  
15 with most, often daily contact with most. So, for example,  
16 when there are trading issues, particularly as the market was  
17 extremely volatile with respect to unliquid securities, Joe  
18 Sowin and I were on the phone several times a day.

19 Relating to the COVID issues, Brian Collins, who heads the  
20 HR group, and I were on the phone several times a day.

21 Relating to structured equity, depending on what's  
22 happening with a particular fund or what's happening in loan  
23 prices, I speak to Hunter Covitz. And it goes down the line.

24 So it really depends on each of the areas and what's going  
25 on in the business, but I try to touch base with each of those

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1 department heads on a regular basis.

2 Frank Waterhouse, of course, is at least weekly. We have  
3 a standing call every week to make sure that we're focused on  
4 liquidity, which is always a concern in a Chapter 11, and  
5 Frank and his team are on that call and prepare weekly  
6 materials for us.

7 Q Okay.

8 MR. MORRIS: Your Honor, before I move to the next  
9 area of questions, the work of the Board, I just wanted to see  
10 if the Court had any questions on the corporate organizational  
11 structure, the internal structure of the business, or any of  
12 the matters that Mr. Seery touched on?

13 THE COURT: I do not. And I do have in front of me a  
14 demonstrative aid that Mr. Annable sent over ahead of time, so  
15 I appreciate that as well.

16 MR. MORRIS: Okay. Your Honor, I think Mr. Seery  
17 covered much of what's on that document, but if you'd like him  
18 to go through that, we're happy to do it.

19 THE COURT: No, that's fine.

20 MR. MORRIS: Okay.

21 BY MR. MORRIS:

22 Q Then let's shift gears a little bit and start talking  
23 about the work of the Independent Board itself. The  
24 Independent Board was appointed in mid-January; is that right?

25 A Yeah. It was the first -- January 9th, the first week of

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1 January, and we started working that afternoon.

2 Q Okay. Can you describe for the Court what the -- the  
3 Board's initial focus? What were you focused on?

4 A Well, if you think about the areas that I just mentioned  
5 previously, the Board initially, for lack of a better term,  
6 gang-tackled everything. So we tried to make sure that we had  
7 a broad base of understanding among the three of us with  
8 respect to the business.

9 I, because of my background, had a lot more familiarity  
10 with asset management, these type of asset security  
11 businesses. But we wanted to make sure that each of us was at  
12 least facile with the main areas that we had to understand.  
13 First was operations. How does the company run each day?  
14 Particularly, how was it going to run without Mr. Dondero?  
15 And I went through some of those functional areas and how we  
16 thought about those and who head each of those.

17 Next in the -- I don't mean to say it's second, because  
18 it's always first, but liquidity. What did the Debtors'  
19 liquidity look like? How are we going to manage that  
20 liquidity, not just for the near-term, but also for the  
21 medium-term, and then even into the slightly longer-term? We  
22 had to think about what assets are there, what money those  
23 assets might need that we would have to invest in them, and  
24 whether there was liquidity in those assets that we can create  
25 liquidity in order to fund the Debtors' business.



1 Personnel, we needed a good opportunity to understand who  
2 did what, not just in the senior managers that I mentioned,  
3 but deeper into the staff, because we're going to rely on  
4 those folks. Particularly worked through with DSI.

5 As I mentioned, the Debtor, unlike a lot of other asset  
6 managers, owns a lot of assets. It's a disparate group of  
7 assets, but getting a feel and understanding for what those  
8 assets were, what the critical issues surrounding those assets  
9 are, who managed them day-to-day: We wanted to make sure that  
10 each of the directors had a good (inaudible) and understanding  
11 of those issues that might arise with respect to those assets,  
12 and a good sense of how quickly those issues could, you know,  
13 further arise.

14 We also had to get a very good understanding of each of  
15 the funds that we manage. As I said, the Investment Advisors  
16 Act puts a fiduciary duty on Highland Capital to discharge its  
17 duty to the investors. So while we have duties to the estate,  
18 we also have duties, as I mentioned in my last testimony, to  
19 each of the investors in the funds.

20 Now, some of them are related parties, and those are a  
21 little bit easier. Some of them are owned by Highland. But  
22 there are third-party investors in these funds who have no  
23 relation whatsoever to Highland, and we owe them a fiduciary  
24 duty both to manage their assets prudently but also to seek to  
25 maximize value. And we wanted to make sure we had a good

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1 understanding of that.

2 Finally, with respect to the shared service arrangements,  
3 we needed to get an understanding of that \$6 billion in assets  
4 and how our business, HCMLP, worked with those -- those shared  
5 service counterparties and exactly who did what for whom.  
6 It's very complicated because it had been run much more on a  
7 functional basis than on a line basis from each contract. So  
8 it's not as if your employees are allocated to NexBank. It's  
9 the whole panoply of businesses that we enter into, and  
10 providing those services to NexBank, not through a central  
11 point but through whatever requests come in from the counter-  
12 parties. So we needed a good understanding of what those  
13 contracts looked and what those obligations were.

14 A VOICE: John, you're on mute.

15 MR. MORRIS: Thank you.

16 BY MR. MORRIS:

17 Q All of that work was going on in the first weeks of the  
18 appointment of the Board?

19 A Yeah, it would not be fair to say we could do that in a  
20 couple weeks. So it took far longer than that. But that  
21 didn't mean that issues didn't start to arise immediately in  
22 February. And so, while we were learning, we were also  
23 starting to get a feel for different things that could happen  
24 in the company.

25 As in many companies, immediately, one of the first things

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1 you have to deal with is, particularly at the beginning of the  
2 year, what does compensation look like; who are the -- what do  
3 promotions look like; are you going to be able to hold this  
4 team together to service these assets? And yeah, we had that,  
5 with an additional wrinkle that Highland's payment structure  
6 defers a significant amount of compensation to its employees,  
7 and it vests over time, and it has the very typical provision  
8 that if you are not there when it vests -- when it is going to  
9 be paid, actually, not when it vests. Even if you're vested,  
10 if you're not there when it gets paid, you're not entitled to  
11 it. And so understanding who was owed what; how the vesting  
12 worked; what the compensation structure looked like compared  
13 to third parties, was one of the first things we had to do.  
14 And Highland has an extremely robust review process. Brian  
15 Collins manages it. It's first-rate. It goes through both  
16 360 in terms of what other employees think of each other as  
17 well as bottoms up, in terms of performance. And then it has  
18 a top-down component, which ultimately ran through Mr.  
19 Dondero. Since he was effectively removed from that role, the  
20 Board had to jump in and get a full understanding with Brian  
21 about what the process looked like; how it was going to work;  
22 how it compared to other firms; and whether we could go  
23 forward with it. And that was one of the motions that was  
24 brought early to the Court.

25 A Let's talk a minute about the transactional work that the

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1 Board was called to focus on initially. Are you familiar with  
2 the transactional protocols that the Debtor agreed to with the  
3 Committee?

4 Q I am.

5 A Can you describe for the Court the impact those protocols  
6 had on the Board's work?

7 Q Well, they make it extremely difficult. And I understand  
8 the purposes behind the protocols. Was not involved in  
9 negotiating them. However, because of the limitations they  
10 put on the Debtor, they make it very difficult to manage  
11 certain of the assets. So, if an asset needs money to invest  
12 in it, depending on the size, it may need Committee approval.  
13 If the -- if there are expenses that need to be paid from --  
14 in related entities, and the related entity does not have the  
15 capital to make the expense payment, the Debtor needs to put  
16 the money in. Can the Debtor put that money in without the  
17 Committee's approval, and if the Committee doesn't approve,  
18 would we have to go to Court?

19 So, the functioning on a day-to-day basis for how to deal  
20 with those assets became very difficult. And that came up  
21 really early, as the market started to get a lot more  
22 volatility by mid-February. We saw with respect to the  
23 internal accounts trades that we would have liked to put on,  
24 for example, short position, where we just weren't able to put  
25 the trades on.

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1 Now, we could go to the Committee, and we did, but  
2 understanding why we wanted to put it on; explaining it;  
3 presenting that opportunity to the Committee; and then having  
4 them go to the full Committee with it: It's very cumbersome.  
5 And the trading markets don't wait for a week to determine  
6 whether that offering that you want to -- that you want to  
7 access is available.

8 So, early on, we got a sense of how difficult it would be  
9 to manage the business with the protocols.

10 One of the areas I think that was significant and that we  
11 talked about significantly with the Committee was an entity  
12 called Multi-Strat. Multi-Strat is a fund that is owned by  
13 the Debtor. It's, in essence, a PUNY-style (phonetic) fund.  
14 It's an older fund. And it's about 60 percent owned by the  
15 Debtor and roughly 30 percent owned by Dondero-related  
16 entities.

17 However, there are 90 million, roughly 89 million,  
18 approximately, third-party redeemers who had redeemed in that  
19 fund but have yet to be paid, so they're treated like equity  
20 claims but they're a fixed dollar amount because they are set  
21 at the date that they redeemed based on the NAV at that time,  
22 the net asset claim.

23 So, we were -- we were stuck with looking at that fund and  
24 trying to determine how do we best manage the fund to get up-  
25 side for the Debtor as well as the related entities that owned

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1 the equity, making sure that we treated the redeemed entities  
2 as fiduciaries, so which we acted as their fiduciaries, but  
3 then also assuring that we managed the assets that that fund  
4 owns in a prudent way.

5 One of the large assets in that fund were 13 life  
6 policies. And these are, in essence, life insurance policies  
7 that the Debtor bought from third parties. And there's a  
8 market that trades life policies, and they owned these  
9 policies on (inaudible). The value at the time was marked  
10 around \$32 million when -- when we took control.

11 The problem with the policies and some of the other  
12 expenses at Multi-Strat is that they didn't -- Multi-Strat  
13 didn't have the funds to continue to pay premiums. So, if the  
14 premiums weren't paid, that \$32 million was at risk of going  
15 to zero. Why? Because if the premiums aren't paid, the  
16 policies lapse. And once they lapse, the insurance company  
17 will pay you zero for them. They don't them buy them back  
18 anywhere. That's the market. But we looked at those assets  
19 and began to consider how we would fund, from a liquidity  
20 perspective, monies going into Multi-Strat.

21 The amounts required would require CC's approval under the  
22 protocols, and the Debtor prepetition had advanced monies to  
23 Multi-Strat to make premium payments and other expenses at  
24 Multi-Strat. We went to the Committee and were able to get  
25 approval to put a couple million dollars in early on to keep

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1 the policies alive while we analyzed the best opportunity for  
2 maximizing value with respect to those policies.

3 But thereafter, we needed additional money to try to  
4 consider how to continue to maximize value, and the Committee  
5 balked. So we went to Dondero-related entities, and they  
6 actually put equity into the Multi-Strats. So we -- the  
7 Debtor had made a postpetition, in essence -- it wasn't a  
8 postpetition advance because it was going outside of the  
9 Debtor, but postpetition, the Debtor made a loan to Multi-  
10 Strat to service the policies, and then Dondero-related  
11 entities made an equity investment into Multi-Strat to  
12 continue to service the policies.

13 Well, we understood as a Board but that wasn't going to  
14 work and that the protocols were going to continue to hinder  
15 us, so we entered into a sale process with respect to those  
16 policies.

17 Q And the work that you're describing with respect to Multi-  
18 Strat, is that -- just to transition to your work as  
19 functionary CEO, would it fall into that bucket as opposed to  
20 the Board work that we were talking about earlier?

21 A Yeah, absolutely. I think the -- the initial assessment,  
22 as I said, we made as a group. And we looked at what the  
23 opportunity set was, and determined that, because of the  
24 costs, we weren't going to be able to continue to fund money  
25 into Multi-Strat to make those payments.

1           So the Board asked me to take on trying to work out a  
2 process to sell those policies. So, working with Fred Caruso  
3 of DSI, we hired a broker, after interviewing a couple  
4 different brokers. We considered the views of the internal  
5 Highland team with respect to value and how to maximize that  
6 value. We entered into a sale process for those policies, and  
7 we ended up with a number of bidders and broke it down to two  
8 bidders for the 13 policies, breaking up the policies to  
9 maximize the value. They're only on eight lives, so it's not  
10 fair to call it a portfolio. And so there's significant  
11 amounts of premiums that have to be paid on a monthly basis  
12 and going forward, and realizations on those policies are very  
13 uncertain because it's hard to take them over an actuarial  
14 methodology because there's only eight lives.

15           We tried to consider other ways to finance those policies,  
16 but seven turned out to be, in our view, far and away the best  
17 net present value for the investors in the fund.

18           The challenge that we had, as I mentioned, is the  
19 complexity of Multi-Strat was also layered with a loan from  
20 NexBank that was secured by four of the policies. That \$32  
21 million loan was also secured by the MGM stock owned by Multi-  
22 Strat.

23           And then, as we got towards closing, we learned that one  
24 of the buyers wanted a more detailed title rep, and as we  
25 peeled through, we found a long-dormant UBS fraudulent

1 conveyance suit that had been brought against Multi-Strat.  
2 There was no lien on the policies, but it made it impossible  
3 for us to give the clean rep that the buyer wanted.

4 And at this point, I was running that with Fred Caruso, at  
5 the request of the Board, and it became almost a full-time job  
6 except for the five other things that we have to do during  
7 April. And we negotiated a variety of different -- well,  
8 considered a variety of different opportunities to try to  
9 complete the sale.

10 First, I negotiated directly with UBS to see if they would  
11 agree to a release, and then when the funds, other than  
12 certain escrows which had to be paid out to NexBank as well as  
13 repayment of the Debtors' fund, (inaudible), that didn't -- it  
14 was very unfruitful in terms of those negotiations.

15 I then moved towards a potential bankruptcy of Multi-  
16 Strat, where we would file Multi-Strat, have to do a 363 sale,  
17 have a DIP loan to service the NexBank monthly payments. That  
18 seemed very expensive.

19 We also thought about doing it as not selling them, so  
20 perhaps we would a 360 -- a filing without a sale and try to  
21 maximize the value by holding onto the policies but have to  
22 get financing.

23 Ultimately, we came up with a structure which was we  
24 escrowed funds for UBS, \$10 million of funds, but they're not  
25 actually for UBS. We preserved all of our rights to defend

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1 the claims and we had paid down NexBank. We allocated funds  
2 to make sure that we can pay NexBank for the next year before  
3 their loan comes due. We allocated for all the expenses in  
4 Multi-Strat. And then when we went back to the sellers, lo  
5 and behold, one of the two sellers balked. Didn't -- or  
6 buyers, I'm sorry. Balked. Didn't want to complete the sale.  
7 And fortunately, our broker (inaudible) and Fred Caruso had  
8 had another buyer in the wings, kept them warm, and were able  
9 to complete the sale for \$37 million.

10 So that goes to: How does this business function, what's  
11 the complexity of it, and what have I and the rest of the  
12 Board been doing? That was virtually a month's worth of work.

13 Q And when did the Board ask you, if you recall, to  
14 undertake this project? When did it begin and when did it  
15 end?

16 A Well, the initial project, around -- around Multi-Strat,  
17 we started analyzing it as a group in January, the first week  
18 we were there. I started probably taking control of it  
19 sometime in mid-February, with Fred Caruso. So, DSI was  
20 already on it. We were looking to work with the Debtors' team  
21 as well as hire a broker. We, as a group, as a Board, made  
22 the decision to sell the policies. Ultimately, we sold them  
23 for about \$37 million, which was -- which was more, a few  
24 million dollars more than the mark on the policies when we  
25 took them.

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1 Q Can you give the Judge a sense of your role, as distinct  
2 from the Board's role, how you went about completing or  
3 attempting to complete all of the tasks that you've described  
4 and the interaction with the Board and what the Board's role  
5 was in assessing all of that?

6 A With respect to the Multi-Strat policies?

7 Q Uh-huh.

8 A I think, you know, initially, it was a understand, for the  
9 three of us, understand the policies; understand the premium  
10 obligations; understand what the benefits, the potential up-  
11 sides to those policies were; and understand what the risks  
12 were if we were to fail to make a premium payment; what did  
13 the lapse period look like. And we did that collectively.  
14 From there, all of the individual work around -- we came up  
15 with a strategy to sell the policies, and then the tactical  
16 work with Fred Caruso about how to execute sale of the  
17 policies and completing that sale through the issues NexBank,  
18 through the issues with UBS, resolving those issues, that  
19 became really my job.

20 Q Now, I do want to take a step back, because we kind of  
21 transitioned from the Board to the work that you were doing,  
22 and I wanted to ask: You're seeking -- the Debtor is seeking  
23 to have you appointed as the CEO, right?

24 A Yes.

25 Q Can you just describe for Judge Jernigan your

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1 understanding of the duties and responsibilities of the CEO  
2 position that we're seeking your appointment for?

3 A Sure. From a high level, it's -- I apologize. From a  
4 high level, it's what I said earlier, which is the Board sets  
5 the strategy, the CEO implements the strategy. And so I work  
6 with the Highland team and the managers that I described  
7 earlier, whose function that is, to try to execute on that  
8 strategy. So that's, that's the basic overlay of what we do.  
9 But that includes everything from, as I mentioned, personnel  
10 issues to COVID-19 protocol to determining whether we're going  
11 to sell certain assets and then how we're going to sell them,  
12 determining how we'll resolve issues like Multi-Strat.

13 Another good example was the trading accounts that the  
14 Debtor had. So, on the second or third week of January, or  
15 perhaps the third or fourth week, we determined as we were  
16 going through the asset review that the Debtor had two primary  
17 liquid or semi-liquid securities accounts, and those were in  
18 the Select account, which was a separate fund that had  
19 previously third-party investors but was effectively a hundred  
20 percent, 99 and change percent, owned by Highland at this  
21 point. And an internal account, which was basically just  
22 HCMLP-owned and denominated securities. These were generally  
23 at Jefferies. Both of them employed significant margin.

24 THE WITNESS: If this is too pedantic, Your Honor,  
25 please tell me if I'm going too deep.

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1 But margin is, in essence, a way for a security purchaser  
2 to borrow money to facilitate the purchase and holding of the  
3 securities. In essence, the lender, which in this case was  
4 Jefferies, a large, well-known, reputable financier and New  
5 York investment bank, was the Debtors' account holder. The  
6 Debtor would select securities. Jefferies would establish a  
7 haircut. The haircut is really the -- how the lender  
8 determines how much they want to lend against the assets. So  
9 if there's a -- if there's a haircut of a hundred percent in  
10 use there, there would be no margin against that asset. A  
11 haircut of 50 percent means the debtor will give you -- or,  
12 the lender will give you 50 percent of the funds you need to  
13 own and hold that asset and you put up 50 percent of the  
14 funds.

15 And in a margin loan, the way that the lender protects  
16 itself is, each day, it assesses the value of the asset; it  
17 looks at the volatility of the asset; and then it asks for  
18 more margin if the asset value went down in the trading  
19 markets; and then you have a day or two or three, depending on  
20 the structure, to post the new margin.

21 If you don't post the new margin, and this the way every  
22 margin loan works, the lender has the ability to seize the  
23 asset, sell it, and pay off its loan. It will then give you  
24 the proceeds above the loan, if any.

25 The debtor -- the lender does that by looking at both the

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1 daily prices, to make sure that it can manage its exposure,  
2 but also it considers the volatility. And what it does when  
3 it's looking at the volatility, and volatility is really a  
4 measure, the way -- the way that securities analysts look at  
5 it, is a forward year of the movement, potential movement of a  
6 security. And that's how you set your haircut. Because if  
7 the -- if the asset is very, very stable -- for example, your  
8 home -- if your home was a margin loan and your mortgage, say,  
9 is a margin loan, there wouldn't be much calling of margin  
10 every day, because if the lender loaned 80 percent of the  
11 value of your home, there may be house sales that go higher or  
12 lower, but they don't necessary move that much really quickly,  
13 particularly if these loans set what's called a threshold  
14 amount that allow a little bit of movement each way.

15 The margin loans, though, are on securities that can move  
16 tremendously. And what happened in February and then in early  
17 March, volatility spiked up, prices moved significantly,  
18 prices moved against the Highland positions. So Jefferies did  
19 two things. One is it called margin, because it was -- its  
20 equity cushion, in essence, was getting trimmed, and it wanted  
21 more protection. Number two, it increased the haircuts, which  
22 it was entitled to do because it looked forward and said, The  
23 volatility in this market is worse than we thought. It will  
24 be a higher volatility and there's more risk to us that the  
25 asset could be worth less than the loan.

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1 I started working with Joe Sowin, who's a head trader, a  
2 very accomplished trader at Highland. He actually reports  
3 into the -- not on the Debtors' payroll but another payroll  
4 that we don't manage. But he spends a ton of time working on  
5 Highland assets and trading those assets. And Joe and I  
6 started working together to try to manage the Jefferies  
7 exposure.

8 At one point, Jefferies actually seized the Select  
9 account. Again, Select wasn't in bankruptcy, but Jefferies  
10 had safe harbor provisions or protections anyway and they  
11 could have done it. We felt they were about to seize the  
12 internal account, and so we sent them a note that said that  
13 perhaps their safe harbors weren't as good as they thought.  
14 But, more importantly, here's our sale program. Jim Seery's  
15 going to take over the account, working with Joe, and we're  
16 going to manage it down.

17 In the Select account, Jefferies took it over -- and this  
18 is not really a blame to Jefferies; it's part of the market --  
19 they sold out of that account pretty quickly. They did work  
20 with us, but they were the selling position and covering their  
21 loan, and we lost virtually all of the value in that account.

22 In the internal account, we effectively kept Jefferies  
23 from seizing it, gave them a sale program, and then day-to-day  
24 managed the sale of the more significant assets, as well as  
25 the hedges, which mean we traded pretty aggressively

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1 throughout the day. This was a full-day job, trading that  
2 account, with Joe as the trader and then me acting as the PM,  
3 effectively.

4 We took that account, which if Jefferies had taken it over  
5 and done -- it had virtually the same securities, it had just  
6 a small number of securities, as well as some hedges which had  
7 significant basis risk related to the securities -- we took  
8 that account over. If we'd gotten the same program as  
9 Jefferies, we would have lost \$11 million. We made about \$23  
10 million. So that swing, that swing was pretty significant.  
11 I'm sorry, we made about \$11-1/2 million, about a \$23 million  
12 swing than if Jefferies had taken it over.

13 So that was another example of what I've been doing that  
14 the Board designated me to do to help run this business.  
15 Working with Joe, as well as research, as well as discussing  
16 these positions on a regular basis with Jefferies, weekly  
17 calls and daily e-mails, we were able to preserve that value  
18 in that account.

19 Q And so, just for context, this is happening in late  
20 February or early March, as COVID is hitting and the markets  
21 are volatile; is that fair?

22 A That's when we started taking it over. The real -- the  
23 real -- the lay in the markets was about March 22nd or 23rd.

24 Q Uh-huh.

25 A And that's when it became a daily grind on those positions

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1 for a solid month to make sure that we got it in a decent  
2 place.

3 And remind you that we were trading those accounts within  
4 the strictures of the protocols. So we didn't have the  
5 ability to -- the securities were -- rather less liquid. We  
6 didn't have the ability to just dump them, because we would  
7 have destroyed the market and taken significant losses.

8 In addition, because of the protocols, we didn't have the  
9 ability to go out and buy hedges, even though we had a  
10 negative bias as to where the market was, particularly in  
11 those less-traded securities.

12 And it's -- it was public that Highland (inaudible) and  
13 Highland (inaudible) was in bankruptcy, so you can be certain  
14 that the traders were leaning on those -- those securities  
15 from short decisions. So it was a very difficult, time-  
16 consuming effort, and a great job by Joe.

17 Q When you talk about a time-consuming effort, how would  
18 you -- how would you characterize the amount of time you spent  
19 on this project in the month of March? Was it a full-time  
20 job?

21 A Yeah. Yeah. I mean, full-time is relative, right, but it  
22 was -- it was a lot of time. So we would start out, you know,  
23 like everybody else who is in those markets and do it the same  
24 way, it's pretty tried and true: By 6:30 in the morning,  
25 you're starting to look at what the EOP, what Asia did, where

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1 European markets were opened up, what the futures were looking  
2 like, looking at your own securities, checking all of the  
3 mail, talking to your research folks. To the extent that you  
4 know that there's other investors in those investments, we  
5 reached out to those -- I have a number of contacts in the  
6 market who are in these kinds of assets -- to see what they're  
7 thinking and how they're looking at value. And then set up a  
8 trading strategy with Joe, and then execute on it every day.  
9 And that trading strategy, again, was not static. So during  
10 the day, a dynamic trading strategy has to be adjusted  
11 depending on what the market is doing, and Joe was excellent  
12 at it.

13 Q I think you mentioned the protocols earlier. Can you just  
14 talk a little bit more about how you and the Debtor  
15 communicated with the Committee through this process of  
16 addressing the Jefferies mortgage -- mortgage defaults?

17 A Well, every day, we sent a report to -- to the Debtor -- I  
18 mean, to the Committee, I apologize -- with our positions in  
19 each of the accounts and tell them exactly what we're doing,  
20 what the plan is, what we're set up to do, where we think it's  
21 going, and what assistance we might need through the  
22 protocols.

23 I think it became really difficult for the Debtors'  
24 professionals -- the Committee's professionals to deal with  
25 these issues, because it's just not what they were used to

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1 doing every day. So we would report to them. The Committee  
2 met weekly. We can -- provided direct information to  
3 Committee members when they -- you know, there's members on  
4 the Committee who are very versed in these types of assets.  
5 We would talk to them directly, I would talk to them directly,  
6 and tell them exactly what we're doing and why and get their  
7 input, because there was no magic special sauce as to exactly  
8 what to do.

9 Q And would you characterize the process as transparent and  
10 open between you and the Committee and its members?

11 A Oh, oh, absolutely. You know, we were -- they were  
12 constructive. I wouldn't say that the Committee wasn't  
13 constructive. I think the difficulty the Committee had, which  
14 is what, you know, any third party would have, is that: Why  
15 are we going to put more money into these accounts when the  
16 value is going down, and what's -- what's your -- what are  
17 your price targets? How do you think about those assets;  
18 who's the analyst who's working on it; how do they compare to  
19 other assets? So it wasn't an easy process for the Committee  
20 to get their arms around, either.

21 Q Okay.

22 MR. MORRIS: Your Honor, we have other transactions  
23 that we could talk about if you think that would be useful, or  
24 we could continue to push this forward.

25 THE COURT: You can continue to push it forward.

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1 Thank you.

2 MR. MORRIS: Okay.

3 BY MR. MORRIS:

4 Q Then let's transition for a moment just about your  
5 recollection as to kind of when and how, you know, the  
6 discussions with the Board and the Committee evolved with  
7 respect to your taking over as CEO. Did there come a point in  
8 time that you can recall when the Board asked you to consider  
9 that?

10 A Yeah. The Board asked me to consider it I would say  
11 probably late January or early February. And the initial  
12 discussions, even before, you know, before we were selected.  
13 So, as John Dubel and I had been selected by the Debtor and  
14 the Committee, we talked about the need for one central point  
15 of management for this company. That it's 70 employees and  
16 diverse assets, diverse business practices. How are we going  
17 to mold that as a Committee? It really needed somebody to  
18 execute the strategic plan that the Board put in place.

19 And so John had asked me about that even before we were  
20 selected. Committee counsel asked me about it. So there was  
21 -- there was some, at least away from me, there was some view  
22 that perhaps I was going to be the person that was most  
23 likely, if it was needed.

24 My view in early February was that, you know, we were  
25 effectively, as the phrase goes, drinking from a fire hose,

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1 and I wanted to get a better sense of who the folks were at  
2 Highland; what their responsibilities are; how they performed;  
3 what I thought of them as performers; how -- I had -- or,  
4 having some idea what the claims are and how that process  
5 would work; and could we make this a success?

6 So, early on, in January and in February, as we started  
7 having these discussions, I was in the Highland offices at  
8 least three, usually four days a week. And I was there from  
9 7:30 in the morning until 6:00 or 7:00 at night every day.  
10 And that gave me just a different feel for exactly how the  
11 organization was running and the issues that were coming up  
12 every day.

13 That evolved into March where, after I took over the  
14 securities accounts in early March and then took over the  
15 Multi-Strat issues, that John and Russ Nelms pushed me to  
16 really consider stepping up fully to the CEO role. So, by  
17 early April, I think it's the first week of April, we actually  
18 -- we put it forth and go to the Committee. So we started  
19 negotiating what potential terms were, how it would work.

20 You know, one of the concerns that I had, you know, we had  
21 no idea, and I suppose we still don't, how the COVID-19 issues  
22 will play out and how that would both -- because at the time  
23 they were really affecting New York, where I'm based and I  
24 live, and less so in Dallas. But by mid-March, it was pretty  
25 clear that the whole country was being affected. And now,

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1 obviously, it's hitting all over.

2 And hopefully that will settle, but what we did learn, and  
3 I think a lot of businesses learned, is that particularly  
4 these types of service businesses that function electronically  
5 in lot of respects, even when they are in an office, because  
6 you're in front of your screen, that we are very lucky to have  
7 these types of roles where we can really perform the job, if  
8 not equally well, pretty darn close to how you perform it when  
9 you're at the office. And so that issue subsided a little bit  
10 in terms of how I would interrelate -- not the issue going  
11 away, obviously -- but how I could interrelate and work with  
12 the team to drive the business, even if I was doing it from  
13 New York.

14 Q And have you continued to play a leadership role from the  
15 time you spoke with your fellow Board members in early March  
16 until the present?

17 A I have. And I think one of the things that the Committee,  
18 you know, recognized was that John and Russ, experienced  
19 professionals, were willing to step back and let me take the  
20 day-to-day working with the Committee or presenting to the  
21 Committee. So we do have weekly Board meetings and we do have  
22 almost daily Board calls, and then, without an official  
23 meeting, we meet on the phone virtually every Saturday or  
24 Sunday, sometimes both, with the three of us, to go through  
25 what's happened every -- each week, how the plan has evolved

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1 and where we're pushing it.

2 But in terms of the presentations to the Committee, I took  
3 the lead on those in both designing and working with the Board  
4 then and then implementing them and laying them out for the  
5 Committee, as well as the individual negotiations.

6 So, early on, we determined that we had to try to figure  
7 out a way to push this case forward, notwithstanding that we  
8 weren't getting -- we didn't see a lot of movement from any of  
9 the parties, frankly, on trying to figure out a way to  
10 coalesce around a direction. So we designed a program that we  
11 laid out for the Committee in which we considered three main  
12 areas to consider for a plan. And I took the lead on doing  
13 that.

14 Q So, let's talk a little bit about the claims resolution  
15 process and the formulation of a plan. Have you played any  
16 role in the claims resolution process?

17 A Well, we haven't actually resolved any claims completely  
18 yet, but we're very close on one, and I've taken the lead on  
19 doing that.

20 On the other two, I've been involved heavily with the --  
21 both counsel and with DSI in analyzing the claims. As well as  
22 with the rest of the Board, frankly. The -- you know, we've  
23 got a significant amount of expertise between John Dubel and  
24 Russ Nelms with respect to how to think about these issues in  
25 the context both of a bankruptcy, obviously, with Russ, and in

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1 the context of both a restructuring and in the business with  
2 respect to John.

3 So we've gang-tackled those, again, effectively, all  
4 analyzing the various issues with respect to these claims.  
5 But in terms of having the direct negotiations, particularly  
6 on two of them, I've taken -- I've taken more of the lead  
7 about where we could go. And if you -- particularly with my  
8 background in restructuring, and having wrestled with  
9 substantive consolidation, alter ego, piercing the veil since  
10 1988 or '89, you know, some of the issues that have arisen in  
11 this case are very, very familiar to me. I've spent a  
12 significant part of my career dealing with those. So I've  
13 taken the lead on those types of issues.

14 I think that where I was going was in terms of structuring  
15 potential outcomes for plans. And we are -- you know, we've  
16 been slowed down, as I think Jeff Pomerantz mentioned last  
17 week, to a fair degree by COVID, in that the business impacts,  
18 we can go into, and Jeff touched on some of those, but the  
19 social impacts with respect to negotiating are hard to -- are  
20 hard to understate. The -- you can run a business like this  
21 through your screen. It's very difficult to simply negotiate  
22 by phone or by video. The face-to-face, at least in my  
23 experience, makes a big difference in moving parties, and we  
24 haven't had as much of that.

25 What we've tried to do recently, starting in May, is we've

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1 put together a program for the Committee, and we'll walk them  
2 through what I think are the -- what we determine as a Board  
3 and then we laid out the specifics -- I didn't; DSI -- of what  
4 the options are in this case.

5 And I think number one was the status quo. Do we maintain  
6 this case status quo, continue to run the business, and then  
7 try to negotiate, resolve, mediate, or litigate, first through  
8 dispositive motions, then through something more significant  
9 if we can't do it through dispositive motions, these claims?

10 The Debtor right now on an operating basis does burn cash.  
11 I can go into the specifics, but the Committee knows them, and  
12 I'd prefer to do those *in camera* if we -- if the Judge would  
13 like that. We do burn cash on an operating basis, but not  
14 that much. The Debtor has about \$30 million (inaudible) and  
15 the business does run, and generally each year the operating  
16 burn, if you will, which is, in compensation, is filled by  
17 selling some assets that have appreciated in value. And the  
18 Debtor runs real -- with those accretions, run roughly  
19 breakeven.

20 The problem in this case is that we are burning a  
21 significant amount of bankruptcy professional fees. And it's  
22 the lament of creditors and business operators and the  
23 bankruptcy bar. I think, certainly, the judges that I see for  
24 a long time. And the percentage -- the cost of the cases  
25 keeps going up and the percentage of the assets keeps going,

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1 but particularly if the asset values are going down.

2 So the status quo didn't make a lot of sense unless we  
3 were going to get very swift movement from the parties, and I  
4 mean all sides, to try to resolve the case.

5 The other type of outcome we thought about in terms of a  
6 plan was a downsiding model. Downsizing model, excuse me. In  
7 that model, we would try to significantly cut headcount, try  
8 to significantly cut expenses. Run the business as leanly as  
9 possible. And then try to go through those steps with respect  
10 to resolving the claims.

11 Again, the problem, the problem with that is resolution of  
12 those claims was uncertain and could take a long time, unless  
13 we had significant movement from either side. But, moreover,  
14 in terms of operating the business, we determined that with  
15 respect to both the managed accounts and shared service  
16 agreements, we really couldn't effectively do the job that the  
17 Debtor does with a smaller staff. Truth is, even at 70  
18 people, the HCMLP staff is pretty lean. It's a really good  
19 team and they are very efficient and they've really proved it  
20 through working offsite, you know, through the pandemic.

21 But we really thought that if we -- and analyzed it. If  
22 we were to try to cut that team and provide the services, we  
23 would fall down. So we would breach the duties or potentially  
24 incur liabilities under those various contracts.

25 The third area that we took a look at, which was what we

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1 called the subservicing model. In this model, we would try to  
2 separate the business of the Debtor, which has a small  
3 operating loss, but it's still material money, from the asset  
4 management. That way, you could hold onto the assets for the  
5 benefit of the creditors or the Debtor, depending on where the  
6 claims comes out, still provide the services to those third  
7 parties under the subservicing agreements or the management  
8 agreements. You wouldn't make money on that, but you'd get  
9 rid of the operating burn.

10 And that model had a number of issues, but we've sort of  
11 evolved that model to what I think has been referred to in  
12 court as the debtor-creditor monetization vehicle. So a  
13 little bit of a cumbersome name, but the idea would be to try  
14 to separate the assets, which potentially are the ways to pay  
15 the creditors, depending on where claims come out, and then --  
16 and the operations, and make sure you can continue the  
17 operations without a heavy burn.

18 That model also permits us to cut, we believe, bankruptcy  
19 operating expenses significantly. So, right now, because of  
20 the nature of the case, we have two professionals doing every  
21 job: Committee professionals and Debtor professionals. We  
22 would be able to reduce that cost by putting those into one  
23 entity that'll be a trust-like structure to service the  
24 business, resolve the claims, monetize the assets.

25 And, finally, something I started working on -- I'd say on

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1 my own, but that wouldn't be true -- with the DSI team,  
2 particularly the two -- we have two excellent analysts on the  
3 case. A very detailed model of what I think has been referred  
4 to maybe even in court as a potential grand bargain plan. And  
5 that plan looks at monetizing the assets over what period we  
6 believe that we could get that done. (inaudible) we're  
7 looking at the values that we could achieve as well as setting  
8 out what we think are reasonable numbers for the claim  
9 distributions and then how they would be made.

10 Now, on the asset side of the ledger, we have a pretty  
11 good understanding. We obviously know where the assets are  
12 bought, and we have a pretty good sense of what the current  
13 market looks like for those assets. We're not a forced  
14 seller, but we have -- we have been involved in processes  
15 around a number of the assets and have a good sense of where  
16 values are and how long it would take to achieve those values.

17 You don't have to sell an asset as well to get money from  
18 it. There might be ways to finance those assets. Although,  
19 to be sure, in this environment, financing particularly these  
20 types of assets has become very, very difficult.

21 The other side of the equation of the claims, and we're  
22 using our best estimate of where we think those claims come  
23 out in terms of payment, the creditors often have a different  
24 view as to what they would like those claims to come out with.  
25 So we're trying to figure out, through negotiation and

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1 discussion, how we get those two sides closer together. And  
2 that, that would be the grand bargain plan.

3 And I think where we're really focused now is that status  
4 quo doesn't make sense. We've gone that way too long.  
5 Downsizing doesn't work because of the complexity of these  
6 operations and the contractual obligations that the Debtor  
7 has. And it's really a grand bargain plan or a Debtor  
8 monetization, a debtor-creditor monetization vehicle, which  
9 would be structured like a trust and still be able to service  
10 the business while resolving the claims.

11 Q Taking into account the uncertainty because there are  
12 still some options being considered, in your leadership role,  
13 have you -- do you have a sense of timing? Is there a  
14 timeline by which certain milestones are at least  
15 aspirational, if not achievable?

16 A Well, I don't think I'm telling anyone what they don't  
17 know, that deadlines get people to act and make decisions.  
18 Sometimes they're good decisions, sometimes they're not, but  
19 we're going to push forward on both of these plan  
20 opportunities now. So we intend to file a debtor-creditor  
21 monetization vehicle plan, and we'll keep pushing the parties  
22 towards settlements.

23 You know, as we say on the Multi-Strat negotiations, until  
24 it was clear that we were either going to default, because we  
25 didn't have the money to pay those premiums, or we're going to

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1 file Multi-Strat as a bankruptcy, it was hard to get folks to  
2 really come to the table and think about how to settle that  
3 issue.

4       These issues in regard to the total case are much more  
5 complicated. We're going to file a plan. We believe that  
6 will set a bit of a crucible to folks to think about how to  
7 move forward with their claims. We are, as Jeff Pomerantz  
8 mentioned last time, agreed in principle, but we have some  
9 issues to work through with Redeemer that we hope to be able  
10 to resolve by this week. And so that's my internal goal, but  
11 I expect to be able to do it.

12       The reason that's complex is not that it's simply a -- the  
13 arbitration award is not simply a money award; it actually  
14 requires certain offsets, it requires certain assets be sold  
15 and paid for. And we're trying to carve our way around some  
16 of those, because they (inaudible) agreement, because they're  
17 -- they're more difficult than simply exchanging cash for  
18 assets, because we don't have the ability to do that right  
19 now. We don't have the cash, and we're in bankruptcy.

20       So I do believe that we can get these done. And then if  
21 mediation is something that would work, great. We're going to  
22 try to do it without mediation as well. Going to try to do it  
23 before we get to mediation and resolve claims. And if we're  
24 unable to do that, hopefully mediation will push it forward or  
25 we have to have a fallback, which will be dispositive motions



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1 with respect to certain of the claims.

2 But we expect to have and I think we have a number of  
3 claims objections that have (inaudible). We've resolved  
4 those. We're really down to three claims. And one of them is  
5 almost done.

6 Q All right. At the last hearing, --

7 MR. MORRIS: Your Honor, that really does finish the  
8 substance of the testimony with respect to this motion, but at  
9 the last hearing Your Honor raised some questions about PPP  
10 loans.

11 THE COURT: Yes.

12 MR. MORRIS: Would you like me to just take a moment  
13 with Mr. Seery to address that?

14 THE COURT: Yes, please.

15 MR. MORRIS: Okay.

16 BY MR. MORRIS:

17 Q Mr. Seery, you're aware that the Judge raised some  
18 questions about whether and to what extent the Debtor may have  
19 been involved in any of the PPP loans?

20 A Yes.

21 Q And have you done any work to try to figure out the  
22 answers to the questions the Judge posed?

23 A Well, work in response to the question, but also work  
24 previously. So, just a -- quickly, as I think we all know,  
25 the PPP program was put forth to try to give companies cash

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1 that they had to use for employee payments, to continue to  
2 keep payroll supported and to continue to have folks hold  
3 their jobs.

4 We have -- and I think the *Business Insider* article, which  
5 I'm not familiar, I know the publication is not something I  
6 seen much, but I'm not familiar with the specifics of that  
7 article, and -- but any PPP, away from the assets that HCMLP  
8 actually owns or controls. And we've got -- we've got three  
9 -- and I think there's some substance to the article. But  
10 we've got three businesses. And these are -- this is public,  
11 but I'll go into the -- sort of the obvious reasons without  
12 going into the specifics of the business around the ones that  
13 I know of well.

14 Carey Limousine is a business that transports folks in  
15 high-quality cars from airports or from events or between  
16 businesses. It was hit severely by the COVID-19 pandemic.,  
17 particularly with respect to the air transportation, which was  
18 really one of its biggest areas. The business,  
19 notwithstanding Uber and the other type of shared ride  
20 services, had actually done quite well, and Highland was an  
21 owner of a significant portion of that business related to  
22 some loans that it held in various funds.

23 That business's management, with its own outside counsel,  
24 sought a PPP loan. Then our director came to us and discussed  
25 with the Board the propriety of that loan. We engaged outside

1 counsel, not bankruptcy counsel but counsel that had  
2 particularized expertise in PPP, and spent a ton of time  
3 really understanding both the law as well as the specific  
4 regs. Carey did get a PPP loan. It is potentially  
5 forgivable, depending on how it's used.

6 The second entity that was similar but didn't come to the  
7 Board, we have a business called SSP, which is an excellent  
8 highway business that provides equip -- materials for a lot of  
9 different road construction, but primarily highway road  
10 construction. Very well run business. That entity got a PPP  
11 loan as well, primarily worried about whether the construction  
12 on the highways would shut down.

13 So it's been -- I don't believe that's really happened in  
14 Texas, which is where most of their business is, but they  
15 qualified for that loan. They did not come to the Board. A  
16 very specific carve-out, because one of the interest holders  
17 that we share that position with is a Small Business  
18 Administration fund and, so it was very clear that it was  
19 entitled to that loan.

20 Then there's a third entity called Roma that got a very  
21 small PPP loan. We don't control the entity and we were not  
22 involved in its acquisition of that loan. Again, it would  
23 have to be used as required.

24 One of the things I want to make sure that is in the  
25 record and for Your Honor with respect to Carey, we spent a

1 lot of time as a Board focused on, one, whether it was legal  
2 to get that loan, first. We're doing everything right, by the  
3 book. We're not going to play in the gray. There is no gray.  
4 There's black and white in these areas.

5 Number two, was it ethical, was it appropriate that we  
6 went and got this loan or that Carey went and got this loan?  
7 Management, with the outside counsel, was sure that we could  
8 do it, but we didn't want to take their word for it, so we  
9 went out and got our own counsel, third-party counsel for the  
10 Board to make sure that this was appropriate.

11 Three, the requirements around these loans are significant  
12 and the penalties for violating them are severe. So if you  
13 get a loan by mistake, are you really required to pay it back?  
14 And if you're mistaken, that will be expensive, but it won't  
15 be a real penalty. But if you get a loan that's really  
16 inappropriate, that you shouldn't have gotten, that was a  
17 material misstatement of any of the facts around it, the  
18 penalties are significant. And not only in terms of the  
19 opprobrium that you'd suffer in the press, because that's  
20 coming, but in terms of how you use the funds.

21 So they can only be used in very specific ways, and we  
22 were exceptionally careful around this program.

23 The basis of the program is to keep people employed. And  
24 with a business like Carey Limousine in particular, where  
25 there's a significant amount of debt, where the business is

1 shut down by COVID, where we didn't have the funds to put into  
2 Carey, nor even if we wanted to, we might not have been able  
3 to do it without the Committee's approval because of the  
4 protocol, a PPP loan was not only legal but it was  
5 appropriate. And it's being used in that fashion, meaning to  
6 keep employees employed.

7 Q Thank you very much, Mr. Seery.

8 MR. MORRIS: Your Honor, I have no further questions  
9 of Mr. Seery. Does the Court have any questions?

10 THE COURT: I actually have a follow-up question  
11 regarding the PPP, just to kind of put a bow on this.

12 EXAMINATION BY THE COURT

13 THE COURT: I'm looking at the demonstrative aide. I  
14 don't know if you, Mr. Seery, have it there handy.

15 THE WITNESS: I do, Your Honor.

16 THE COURT: Okay. So I'm turning to Page 6, the  
17 chart, the subchart, Investments and Subsidiaries. The third  
18 column, Privately-Held Equity, Various Companies. I mean,  
19 that would be the type of investment entity we're talking  
20 about here that got the PPP loan: Carey Limousine, SSP, Roma?  
21 Nothing that was -- well, I'm going to say Highland affiliate.  
22 Affiliate, that's a dicey term, but that's the type of entity  
23 in the organizational structure we're talking about, correct?

24 THE WITNESS: Those are the ones -- I want to be very  
25 careful, because I know what I know and I know I won't

1 represent anything that I don't know.

2 So, with respect to the entities that HCMLP, the Debtor,  
3 controls, that's absolutely the case. I don't know, and I can  
4 try to find out, but they are not HCMLP-controlled entities.  
5 Whether other entities in the related-party complex received  
6 loans -- so, obviously, HCMLP did not receive a loan. And the  
7 only entities that we were involved with is the ones I  
8 mentioned to you.

9 And I should mention, there are other entities in the  
10 privately-held equity that got other government money, in the  
11 medical space, that they didn't even ask for. HHS pushed  
12 forward payments to folks in the business, medical healthcare-  
13 providing businesses, to assure that they had liquidity to  
14 provide. And so -- and this has been described to me exactly  
15 this way, that they woke up in the morning and found money in  
16 their account. And with one of the companies, they actually  
17 returned a bunch of the money because it was from a dormant  
18 provider number and they didn't believe it was appropriate to  
19 keep that money. So that was one of the entities that we  
20 control with other investors.

21 But with respect to our HCMLP entities, these are the only  
22 ones I know. With respect to other related entities that  
23 might be in the family of businesses, for lack of a better  
24 term, that were alluded to in the *Business Insider* article, I  
25 don't know that answer. So, I -- if I -- I can try to find



1 out. I just don't know the answer, Your Honor.

2 THE COURT: All right. Thank you. Well, this has  
3 been extremely helpful.

4 I should ask does anyone have any questions of Mr. Seery?  
5 The Committee counsel, perhaps? Anyone else?

6 MR. CLUBOK: Your Honor, this is Andrew Clubok. In  
7 light of the testimony, I do have some questions on behalf of  
8 UBS.

9 THE COURT: All right. Briefly. Go ahead.

10 MR. CLUBOK: Okay.

11 MR. MORRIS: Your Honor? Your Honor, I'm sorry to  
12 interrupt, but there's no objection lodged here. If Your  
13 Honor wants to permit it, that's obviously the Court's  
14 prerogative. But as just a point of order, having not lodged  
15 an objection, I don't know what right anybody has to cross-  
16 examine the witness.

17 THE COURT: All right. Well, that's why I said  
18 briefly. I think that Mr. Morris makes a good point, Mr.  
19 Clubok. You could have filed a written objection, response,  
20 comment, or something. So, you're a party in interest. I'll  
21 give you a little bit of leeway here. But please keep it  
22 brief.

23 MR. CLUBOK: Yeah. Thank you, Your Honor. It's just  
24 some of the things that Mr. Seery said which we didn't expect  
25 to hear that has raised a few questions that I just very

Seery - Cross

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1 briefly will try to address.

2 CROSS-EXAMINATION

3 BY MR. CLUBOK:

4 Q Mr. Seery, good afternoon. I'm Andrew Clubok, Latham &  
5 Watkins, on behalf of UBS.

6 Mr. Seery, you talked about the fiduciary duties you've  
7 understood yourself to have with respect to certain parties,  
8 and my question to you is: Have you understood, since the  
9 beginning of your service as an Independent Director of  
10 Strand, that you had fiduciary duties to the unsecured  
11 creditors of the Debtor?

12 A It's a -- it's a -- the answer is I understand the  
13 fiduciary duties very well. I think we have fiduciary duties  
14 to the estate. So Highland -- what I tried to explain is that  
15 Highland, as an asset manager, has very specific fiduciary  
16 duties that are set forth in (inaudible) in the cases and the  
17 rules that have interpreted it. We, as directors of Strand,  
18 have a duty to the estate.

19 I don't think it's -- I don't think it's fair, and I'd  
20 have to subject myself to some education from counsel, I don't  
21 think it's fair to say we had a specific fiduciary duty to a  
22 particular creditor.

23 So, for example, if I had a fiduciary duty to UBS, it  
24 would be very difficult for me to object to UBS's claim. It  
25 would be -- I don't know how I could do that as a fiduciary.

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1 When the claim is crystalized in the estate, I believe that we  
2 have fiduciary duties to each and every interest holder in the  
3 estate.

4 Q My question is a little simpler, and I just -- well, I'm  
5 actually not asking legally whether you do or not. I'm asking  
6 what your understanding has been since your role. Have you  
7 conducted yourself in a way in which you have treated your  
8 obligations as though you have a fiduciary obligation to the  
9 unsecured creditors?

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

11 THE COURT: Sustained.

12 MR. CLUBOK: Okay.

13 BY MR. CLUBOK:

14 Q You said that you believe that you have, with respect to  
15 Multi-Strat, which is an entity that you manage, you said that  
16 you understood yourself to have fiduciary duties to the  
17 redeemers of Multi-Strat. Do you recall that?

18 A Yes.

19 Q Yeah. And Multi-Strat is outside of the estate, but HCM,  
20 the Debtor manages Multi-Strat. And you said because of, you  
21 know, your role, you personally feel as if you have a  
22 fiduciary duty to the redeemers in Multi-Strat, correct?

23 A I --

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

25 Mischaracterizes the testimony.

Seery - Cross

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1 THE COURT: Sustained.

2 MR. CLUBOK: Your Honor, I believe that the  
3 transcript -- I believe Mr. Seery said in direct that he  
4 considered himself to have fiduciary duties with respect to  
5 the redeemers of Multi-Strat. The transcript will show it. I  
6 don't know what the objection is. Maybe I misstated when I  
7 asked my question, but I'm just starting --

8 THE COURT: Okay.

9 MR. CLUBOK: I'm just trying to understand --

10 THE COURT: All right. I'll let you rephrase the  
11 question, but this -- I've probably -- I may have made a  
12 mistake in letting you ask questions, because this is about  
13 the propriety of him being CEO and the reasonableness of  
14 compensation. This isn't a discovery opportunity. So I'm a  
15 little confused the relevance of what you're asking. Could  
16 you address that for me?

17 MR. CLUBOK: Sure. Your Honor, Mr. Seery on direct  
18 described what he understood his fiduciary duties to be. I  
19 think we -- it made me wonder, he didn't mention the unsecured  
20 creditors or what he believes his fiduciary relationship is,  
21 if any, with the creditors, unsecured creditors. I would -- I  
22 think it's a fair question to ask what his understanding is,  
23 because now he's going to take on a new role as CEO, and I  
24 think it's appropriate for everyone to understand, so we know  
25 when we're dealing with Mr. Seery --

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1 THE COURT: Okay.

2 MR. CLUBOK: -- what his --

3 THE COURT: I think -- I think he --

4 MR. CLUBOK: -- he understands -- what he understands  
5 his fiduciary duties to be.

6 THE COURT: I think he answered the question, and  
7 frankly, I think he answered it correctly. His fiduciary  
8 duties go to the estate, right? And the creditors are the  
9 beneficiaries of his actions in that regard, right? So I  
10 think he correctly answered the question already. All right?  
11 Next question.

12 MR. CLUBOK: Okay. He says that there's three  
13 aspects of the business he's been managing: \$300 million,  
14 roughly, of Highland's own assets; the fact that they manage  
15 \$3 billion in other assets, I think in managed assets; and  
16 then they have shared services for \$6 billion in assets owned  
17 by related entities, mostly.

18 BY MR. CLUBOK:

19 Q For those three separate businesses, I just want to  
20 briefly understand: With respect to the first one, for  
21 example, there's \$300 million, you said, roughly, of  
22 (inaudible) assets. Roughly what were the value of the assets  
23 when you started your role in January of 2020?

24 A It's hard to compare apples to apples on this because  
25 there are certain assets that we've taken out that didn't

1 change in value. So I would say they were carried on the  
2 balance sheet at different levels. I think a good rough  
3 number would be in the \$500 to \$600 million area.

4 Q Okay.

5 A And the biggest -- the biggest movants in asset values  
6 have been on securities, both ones that we continue to own and  
7 the accounts that Jefferies -- that were levered, and those  
8 were shown as unlevered marks on the balance sheet and the  
9 losses that were incurred there. And then with respect to  
10 certain of the PE assets and then a major movement on a  
11 related-party loan, where the Board, through analysis that we  
12 did with DSI and others, believes that loan is likely to be  
13 worthless. Likewise, the claim of that entity we believe is  
14 likely to be worthless.

15 Q And then to the extent the assets, you say, have a rough  
16 value of \$300 million, you alluded to significant professional  
17 fees, bankruptcy costs, administrative fees, the Debtor is  
18 burning cash. My question is, If it's \$300 million today  
19 roughly of total value of assets, what's your current best  
20 estimate of the total amount that will be available to be  
21 distributed to the creditors net of those -- that burning of  
22 cash and the admin fees and the other issue that you  
23 mentioned? What is your current expectation of the total  
24 amount that will be able to be distributed to the creditors?

25 MR. MORRIS: Your Honor, just -- I just object to



1 this line of inquiry. It's like free discovery, as Your Honor  
2 suggested earlier. I don't know what it has to do with Mr.  
3 Seery's work, his qualifications, the compensation  
4 arrangements. And I think it's inappropriate.

5 THE COURT: Okay. I'll overrule and allow this one  
6 remaining question, but that's going to be it, unless your  
7 next questions pertain to the employment or compensation  
8 structure.

9 THE WITNESS: Yeah, I don't have a crystal ball as to  
10 what the assets are going to be worth. I think that they are  
11 fairly marked right now, and we have significant discovery  
12 that we've had with respect to a number of the assets and  
13 marked at views as to their value. So I think that we're at a  
14 pretty good base value, assuming that we don't rush into  
15 forced sales of assets.

16 So, as I know the Court is aware and I hope you're aware,  
17 when you look at asset values, and you look at them on a  
18 liquidation basis, the numbers are normally much lower than  
19 when you look at them as selling them on a more controlled  
20 basis. If you have liquid securities, that's not the case.  
21 So if I have \$500 million of Apple at \$363 today, it's  
22 probably a good chance that it'll be worth something different  
23 in a month, something different in two months. But if I need  
24 to move my position, I can do that.

25 These assets are much more difficult to move. And the act

1 of selling them often changes the value, which is why we  
2 engage professional bankers to help move, first, those assets.

3 So I just don't have a good crystal ball. I think the  
4 valuations that we have now are pretty good. I think they've  
5 been scrubbed well. But that doesn't mean that certain of  
6 these assets will maintain the exact value they have. So, I  
7 gave a good example of Carey Limousine, which is a very small  
8 asset but it's an easy one to understand because everybody can  
9 relate to a car service company that does, you know, a little  
10 bit more high-end and is focused on the airport travel and how  
11 that's been impacted.

12 That asset value has gone down precipitously, even though  
13 it was small, because of that. So I don't -- I don't really  
14 have a great crystal ball as to what's going to happen. If  
15 we're very successful in the fourth quarter and the economy  
16 stabilizes and the COVID vaccines are out in record time and  
17 move forward, then I think we've got potential for upside.  
18 But right now, in the current environment, I think we're  
19 marked fairly.

20 BY MR. CLUBOK:

21 Q Yeah. But my question really wasn't about the value of  
22 the assets. I realize those could go up or down. And you  
23 think they're fairly marked. My question was, What's the  
24 total amount of setoff from those assets to the extent the  
25 bankruptcy fees you alluded to, the burning of cash on the

1 other businesses, you know, how much, you know, net -- what's  
2 the amount that will come off of those assets or that should  
3 be -- that we should assume will be deducted from those assets  
4 because of the professional fees that have been incurred or  
5 you predict will be incurred through the end of the year and  
6 the burn of cash that you mentioned, et cetera?

7 I'm trying to understand how you supervised -- because  
8 you've managed those expenses as well as the assets, right?  
9 And so I just think it's important for us to understand, at  
10 the end of six months, and then how things are set for the  
11 rest of the year, what's the total amount of, you know, call  
12 it liabilities or costs associated with running the business,  
13 running the business and at a cash burn rate, bankruptcy fees,  
14 et cetera, that we --

15 THE COURT: Okay. I'm going to cut it off. I'm  
16 going to cut it off. That, in my view, is going a little too  
17 far afield. That's a discussion outside the courtroom. So,  
18 thank you, and we're going to see: Does the Committee have  
19 anything they want to ask?

20 MR. CLEMENTE: Your Honor, Matt Clemente on behalf of  
21 the Committee.

22 I certainly do not have any questions to ask. I do have a  
23 couple of statements that I want to make, but I don't know if  
24 now is the appropriate time or if there's going to be further  
25 testimony.

1 THE COURT: Okay. I think there might be another  
2 witness or two, but we'll let you make your comments at the  
3 appropriate time.

4 EXAMINATION BY THE COURT

5 THE COURT: Mr. Seery, I meant to ask, I forgot to  
6 ask: You've mentioned a couple of times the Debtor, Highland,  
7 has 70-ish employees. Has the number gone down since the case  
8 was filed, is Highland losing employees, or is it staying  
9 stable?

10 THE WITNESS: We lost -- we lost seven employees.  
11 There were some that were severed for performance reasons.  
12 That happens every year. There were some that just moved on  
13 because they decided to move on. And that some -- and then we  
14 had some that, because of the bankruptcy, we lost. We added,  
15 I think, one or two employees that we're pretty excited about  
16 in the fund valuation area, which is a pretty critical area  
17 for the shared services. Unfortunately, they haven't been  
18 able to go to the office, but fortunately, they've been able  
19 to work.

20 So we're down, Your Honor, probably eight total, and so  
21 we're more of the low to mid-60 area right now.

22 THE COURT: Okay. And --

23 MR. SEERY: And we were a little bit north of 70 when  
24 we took the case.

25 THE COURT: Okay. And the COVID situation, I mean,

1 if you walked into the office, would there be people around in  
2 masks, or are people still working at home?

3 MR. SEERY: People -- so, in -- yeah. So, in March,  
4 very early on, as things started to shut down, Brian Collins,  
5 who's the director of human resources and an accomplished  
6 professional, came to the Board and basically said, you know,  
7 yeah, Texas is better, but it's not immune. We need to come  
8 up with a program.

9 And with Russ Nelms and John Dubel and I, we developed a  
10 program, with Brian -- with Brian driving it, to figure out  
11 exactly how to approach going into the office; how we would  
12 maintain the office; and then, if something were to happen,  
13 what we would do.

14 We had an employee who, with her family, got COVID in --  
15 we believe in New York, came back. And as soon as we found  
16 out that person wasn't feeling good in the office, it was the  
17 first day they were back, a protocol with thermometers and --  
18 at that time, thermometers were thought to be valuable -- we  
19 immediately sent that employee home. We then brought in a  
20 cleaning crew to clean up the office with EPA and FDA-approved  
21 materials, and then had several days off and brought folks  
22 back the following week.

23 We found that to be, frankly, unwieldy as COVID started to  
24 continue to creep a bit through March and into April. At that  
25 point, we did have other employees, not who came into the

1 office, but who had contracted COVID, so we shut down HCMLP.  
2 When we cleaned the office, we shut it down completely.  
3 Nobody could go in.

4 When -- since then, we have set the office up where we had  
5 initial (inaudible) when things were pretty good, so we  
6 divided the move into -- into basically 20 percent could be in  
7 the office at any one time. And then, since that time, as  
8 things have gotten worse, we found that we were, one, working  
9 extremely well offsite; and two, that it was just a better  
10 environment for the employees. So we've been working  
11 continually offsite.

12 If folks need to go in, because either they need more  
13 advanced systems that they can't go to plug-and-play at home,  
14 or because there's just materials that they want to get,  
15 they're able to do in. We have tons of disinfectant  
16 everywhere. We have masks available. We put in dividers,  
17 Plexiglas dividers between the work stations to assure that if  
18 someone was at a station for a long time, it didn't -- it was  
19 less likely that you could have transmission.

20 I will tell Your Honor that HCMLP is not reporting to the  
21 office. Some of the affiliated businesses, and I don't know  
22 the percentage, have been. So those businesses, which we  
23 don't control, are going in.

24 From my perspective, as long as the numbers are where they  
25 are in Texas, from both a business perspective in terms of



1 making sure that the employee base doesn't contract COVID in  
2 material amounts -- first, any amount -- but in material  
3 amounts that would impact our ability to run the business.  
4 And then with respect to the civic part of it, which is we  
5 don't want to be a part of forcing the spread or causing the  
6 spread of this disease, we know we can work from home. We're  
7 going to continue to do that until we believe it's very safe  
8 to go back.

9 Notwithstanding that we have the ability and have been  
10 doing it with extensive cleaning, extensive disinfectant, and  
11 with dividers, until we are very comfortable that we can go  
12 back and protect our employees and that it's the right civic  
13 thing to do, we're not going to go back, particularly since it  
14 doesn't impact our ability to perform.

15 THE COURT: Okay. I really want to, you know, get to  
16 the rest of our hearing soon, but I heard something that made  
17 me have a question. You said there are other entities we  
18 don't control whose employees are going in. Could you tell me  
19 exactly what you meant by that?

20 THE WITNESS: There's -- away from HCMLP, there's  
21 approximately another 75 to 80 -- it may be slightly more --  
22 employees at the other entities that are NexPoint, NexBank,  
23 NexPoint Advisors. They are under different protocols that  
24 neither I nor Russ nor John control. The office --

25 THE COURT: Let me just stop you.

1 THE WITNESS: Please.

2 THE COURT: So it's just Nex -- well, NexPoint-  
3 related companies?

4 THE WITNESS: Uh-huh.

5 THE COURT: NexPoint and --

6 THE WITNESS: Yes.

7 THE COURT: -- affiliates of NexPoint?

8 THE WITNESS: Correct, Your Honor. The office, the  
9 HCMLP offices are huge. And when we were there pre-COVID,  
10 with the full complement of folks, it felt like they were  
11 relatively empty. I shouldn't say -- they felt like there was  
12 plenty of space.

13 What we found, with both sets, our employees and then the  
14 NexPoint-related employees, when 140 or 150 people were in  
15 that office, which pre-COVID felt comfortable, post-COVID  
16 didn't feel so comfortable. So our employees, we started, as  
17 I mentioned, with the shift-working. And then we decided to  
18 go completely mobile unless somebody feels they have to be in  
19 the office, and we want to make sure that they follow the  
20 protocols when they do.

21 With respect to the non-HCMLP related entities, those  
22 entities, some percent of those employees are still going into  
23 the office.

24 Now, when they're there, to be frank, what I said was a  
25 pretty comfortable place with 140 people is a pretty empty

1 place if there's only 50. But our employees, we felt it was  
2 important, since we were able to execute from home, we didn't  
3 need, on most parts, the extra systems to be able to execute  
4 in the office, that we could largely perform from home to make  
5 sure that we weren't taking any risks with the business but  
6 also taking -- one, taking risks for the employees; two,  
7 taking any risks for the business; and three, as I mentioned,  
8 the civil perspective.

9 THE COURT: Okay. We're going to have to take a  
10 five-minute break here in just a second, but let me kind of  
11 elaborate on why I was drilling down on that question about  
12 NexPoint. I mean, isn't it Highland employees who service  
13 NexPoint? Or am I wrong about that?

14 THE WITNESS: Highland employees service a lot of  
15 NexPoint. But NexPoint, NexBank, the various funds, NXRT,  
16 there's a number of businesses: They have their own employees  
17 as well.

18 THE COURT: Okay.

19 THE WITNESS: So the whole complex is about 150  
20 employees.

21 THE COURT: Okay.

22 THE WITNESS: Highland Management is about 70.

23 THE COURT: Okay. All right. Well, are we finished  
24 with Mr. Seery's testimony, Mr. Morris?

25 MR. MORRIS: Yes, Your Honor. Our next witness after

1 the break will be John Dubel.

2 THE COURT: Okay. Very good.

3 MR. MORRIS: And we --

4 THE COURT: Mr. Seery, again, this has been extremely  
5 helpful for me, and I hope for others. I hope you'll stick  
6 around, because when we circle back to the mediation  
7 discussion at the end of today, I really would like you to be  
8 involved in that discussion. I may want your input on one or  
9 two things. So can you stick around?

10 THE WITNESS: Absolutely, Your Honor. Other than  
11 getting some water and maybe turning the air conditioning back  
12 on in this room, I'll stay.

13 THE COURT: You must not be in Texas if you don't  
14 have your air conditioning on. I assume you're in New York.  
15 All right. Five-minute break. We'll be back.

16 THE WITNESS: It's hot, but not Texas hot.

17 THE COURT: Okay. Thank you.

18 THE WITNESS: Thank you, Your Honor.

19 THE CLERK: All rise.

20 (A recess ensued from 3:16 p.m. until 3:22 p.m.)

21 THE CLERK: All rise.

22 THE COURT: All right. Please be seated. We're back  
23 on the record in Highland.

24 Mr. Morris, you were going to call Mr. Dubel next?

25 MR. MORRIS: Yes, the Debtor calls John Dubel.

Dubel - Direct

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1 THE COURT: Dubel?

2 MR. DUBEL: Your Honor, may I have just one minute to  
3 -- my air conditioner.

4 THE COURT: All right. Mr. Dubel, I said your name  
5 wrong. Could you say Testing 1, 2?

6 MR. DUBEL: I can do that, Your Honor. Testing 1, 2.

7 THE COURT: Okay. Very good. Please raise your  
8 right hand.

9 JOHN DUBEL, DEBTORS' WITNESS, SWORN

10 THE COURT: All right. Thank you. Mr. Morris, you  
11 may proceed.

12 MR. MORRIS: Thank you, Your Honor. As Mr. Pomerantz  
13 previewed, Mr. Dubel's testimony is going to largely cover the  
14 corporate governance-type issues concerning the evolution of  
15 the motion, the discussions or the, you know, beginning of the  
16 discussions, and how the proposal itself evolved.

17 If I may, Your Honor, just to perhaps move this along, I  
18 might lead the witness a little bit. If it's a problem,  
19 you'll let me know, okay?

20 THE COURT: Okay. I will let you know if it's a  
21 problem.

22 MR. MORRIS: Okay.

23 DIRECT EXAMINATION

24 BY MR. MORRIS:

25 Q Good afternoon, Mr. Dubel. You're a member of the Board

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1 of Strand today; is that right?

2 A I am.

3 Q And you've held that position since mid-January; is that  
4 right?

5 A Since January 9th, yes.

6 Q Okay. And you understand that we're here today on the  
7 Debtors' motion to appoint Mr. Seery as the Debtors' CEO, CRO,  
8 and the Foreign Representative?

9 A I do understand that, yes, sir.

10 Q Does the Board unanimously support the motion?

11 A I think the Board does, and specifically the compensation  
12 committee, because of obviously the conflict that Mr. Seery  
13 might have, you know, but the Board fully supports it, and the  
14 compensation committee is comprised of Mr. -- Judge -- Judge  
15 Nelms and myself.

16 Q Okay. And do you believe that -- withdrawn. Does the  
17 Board believe that it's in the Debtors' best interests to  
18 retain Mr. Seery on the terms proposed?

19 A We do.

20 Q And why does the Board believe that?

21 A Well, as the Court has heard from the testimony of Mr.  
22 Seery today, he has a tremendous amount of skills and  
23 experience in the area of asset management. He's effectively  
24 been serving as the CEO since -- well, in a lot of ways, since  
25 January 9th, when we asked him to step up and take on some



1 additional responsibilities, but very clearly since the middle  
2 of February, and specifically, the middle of March.

3 And as the Court noted, he is -- knows these assets very  
4 well. He knows the operations. He's done an exemplary job of  
5 handling all of the issues. He has spent a tremendous amount  
6 of time working with the Committee members, trying to develop  
7 good lines of communications.

8 And, you know, Russ -- having, you know, served in a C  
9 Suite position for 25 years of my 30-plus years of  
10 restructuring experience, and 15 years as a CEO, we need a  
11 good leader, an operational leader to run the organization.  
12 So we can support him because you need to have someone in  
13 there who can make decisions; work quickly; obviously,  
14 communicate well with the Board, which he has been doing for  
15 quite some time. So, all the -- all of the reasons why we are  
16 very pleased to have him take on this role.

17 Q Okay. Let's talk a little bit about what led to this  
18 particular motion. Do you recall when the idea of appointing  
19 a CEO first arose?

20 A I would say it was back in December, before the  
21 Independent Board was put together, when we first started  
22 intervening with the creditors and with the Debtor. It was  
23 raised to me in my interview, would I be, you know, willing to  
24 step in as a CEO if asked to? And I'm assuming it was also  
25 asked of Mr. Seery. I didn't ask him that. And it was all

1 obviously coming, you know, out of the protocols that were  
2 being developed where Mr. Dondero would step down as the CEO  
3 and the Independent Board would basically be responsible for  
4 the operations of the company. But we had the opportunity to  
5 go out and seek either one of the three Independent Board  
6 Members as the CEO or go outside to the marketplace and try  
7 and find an independent or a third-party CEO.

8 Q And to the best of your recollection, was that flexibility  
9 built into the term sheet that was part of the corporate  
10 governance settlement?

11 A It was.

12 Q All right.

13 MR. MORRIS: Your Honor, this is where we're going to  
14 test our technological capabilities. I'm going to ask Ms.  
15 Canty to put up and to share Exhibit 1, and let's see if we're  
16 able to do that.

17 THE COURT: Okay. But if anything goes wrong, I  
18 actually do have the docket up on my screen. I can pull them  
19 up. But, oh, even better. Even better. Okay.

20 MR. MORRIS: All right. It looks like it worked.  
21 Ms. Canty, if you could turn to Page 2, please. I think  
22 that's Page 1.

23 (Pause.)

24 MR. MORRIS: I think it's stuck.

25 THE COURT: Hmm.

1 THE WITNESS: If need be, I have a teenager who could  
2 probably figure this out, because I sure can't.

3 MR. MORRIS: I'm impressed that La Asia got to this  
4 point already. Okay. Good. Just the one on the right. Is  
5 there a way to focus in on the top paragraph on the right?

6 THE WITNESS: I'll put my glasses on and I'll be able  
7 to read it.

8 MR. MORRIS: Okay. Right there. Perfect.

9 BY MR. MORRIS:

10 Q Is -- are you familiar with the provisions generally in  
11 the term sheet relating to the opening of CEO?

12 A I am.

13 Q And is this the provision that you were referring to  
14 earlier?

15 A It is.

16 Q And does this provision, to the best of your  
17 understanding, provide the Board with the flexibility, in  
18 consultation with the UCC, to exercise its business judgment  
19 and appoint a CEO if it determined that to be in the Debtors'  
20 best interest?

21 A It does. It's consistent with the discussions had -- that  
22 were had prior to our appointment, and it obviously was  
23 incorporated in the term sheet that was approved by the Court  
24 on January 9th.

25 Q And this also reflects the understanding that you

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80

1 described earlier, where one of the Independent Directors  
2 could, in fact, be selected as the CEO; is that right?

3 A That is correct.

4 MR. MORRIS: All right. Let's just take that down,  
5 please, Ms. Canty.

6 BY MR. MORRIS:

7 Q Mr. Dubel, has Mr. Seery, in fact, taken on day-to-day  
8 operational responsibilities for the Debtor?

9 A Yeah. Yes, he has. And I think early on the Board  
10 realized that, between the three Board members, we would try  
11 and divvy up the responsibilities, as Mr. Seery referred to  
12 earlier, and it was definitely like drinking from a fire hose  
13 in the early stages of the case, where the new Board was put  
14 in place. And we tried to divvy up our responsibilities,  
15 taking into consideration each of the Board Members'  
16 expertise.

17 But it was pretty clear that the main business operations  
18 required somebody with the skill set that Mr. Seery had, and  
19 it would be much more efficient, as we progressed forward, to  
20 coalesce around one individual as a CEO.

21 MR. MORRIS: Ms. Canty, can you pull up Exhibit 2?

22 BY MR. MORRIS:

23 Q And while we're doing that, Mr. Dubel, do you recall early  
24 on that the Board asked Mr. Seery to become involved in the  
25 trading of the prime accounts?

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1 A I do, yes.

2 Q Okay.

3 MR. MORRIS: La Asia, I don't know if you can scroll  
4 down just to --

5 Your Honor, these are minutes from the Board's very first  
6 meeting. And if we go to the next page, right here, you'll  
7 see there's a discussion in the second paragraph.

8 BY MR. MORRIS:

9 Q Mr. Dubel, does that reflect the Board's deliberation and  
10 decision, really, on the first day, to give Mr. Seery, you  
11 know, the responsibility for dealing and overseeing the prime  
12 accounts?

13 A It does. And what I was saying is, prior to the  
14 appointment, in doing all of our diligence prior to joining  
15 the Board, we realized there were all these issues that needed  
16 to be dealt with. And so we came in on the very first day,  
17 ready to recognize that there were certain things that needed  
18 sort of expertise. And they were presented to us by DSI and  
19 the management of HCMLP as areas that needed some additional  
20 handling and oversight. And so we asked Mr. Seery to step  
21 into that role on the very first day, which he -- which he  
22 agreed to and the Board approved it.

23 Q Okay. Let's get to the meat and potatoes here. Did there  
24 come a time when the Board and Mr. Seery actually began  
25 discussing the possibility of his serving as the CEO?

1 A Yes, there did.

2 Q And can you share with the Court your recollection of how  
3 that began?

4 A So, there were informal discussions, I would say, through  
5 the month of February, as we started to realize that there  
6 were -- the decision-making was going to be cumbersome,  
7 having, you know, three parties involved. As I said earlier,  
8 having spent 15 years or so my career as a chief executive  
9 officer, I understand where you really want to have one person  
10 be responsible for these issues.

11 And so we were conversing with Mr. Seery to see if he  
12 would take on that role. And, obviously, we had felt very  
13 comfortable, Mr. Nelms and I felt very comfortable with the  
14 communications that he was having with us on things that we  
15 had asked him to do. There was a very free and open  
16 discussion with the Board members. So we continued, you know,  
17 to look at opportunities where it might make sense.

18 And then, you know, towards the beginning of March, it was  
19 pretty obvious that we were going to want to coalesce around  
20 the motion. We thought about whether or not that would be  
21 some third party. But having, again, experience of having to  
22 go out in the marketplace to find CEOs when I'd been either,  
23 you know, a director or involved in companies, we realized  
24 that can be very time-consuming, would take us months to find  
25 somebody.



1 And so we continued to discuss it with Mr. Seery. And  
2 around the middle of March or so, right around the time that  
3 we had a Creditors' Committee meeting in New York, we asked  
4 Mr. Seery if he would take that role on, and he agreed to, to  
5 take that role.

6 Q And that's -- and is that why the Debtor is seeking  
7 authority to retain Mr. Seery nunc pro tunc back to March  
8 15th?

9 A We are. I mean, effectively, he really started the role  
10 in the February time frame. But we officially asked him about  
11 this in -- right after that meeting on March -- I think it was  
12 March 11th or so.

13 Q So, is it fair to say that's when the Board had a meeting  
14 of the minds with respect to not necessarily the terms but at  
15 least the engagement of Mr. Seery as CEO?

16 A Yes, that is fair to say.

17 Q Okay.

18 A And that's when he really did step up and take on all of  
19 those responsibilities, you know, with the acknowledgement and  
20 understanding that we would work out the appropriate terms for  
21 his engagement.

22 Q Okay. And a couple of weeks later, do you recall that Mr.  
23 Seery made a written proposal to you and Mr. Nelms?

24 A He did make a written proposal after, you know, having  
25 discussions with us orally about various issues and roles and

1 responsibilities. I think it was around April 4th or so that  
2 he presented us with a written proposal.

3 MR. MORRIS: All right. Ms. Canty, can you call up  
4 Exhibit 3, please? (Pause.) Okay. If you'll scroll down.

5 BY MR. MORRIS:

6 Q Mr. Dubel, is this the April, the early April e-mail that  
7 you were referring to in which Mr. Seery made a proposal for  
8 the terms of his engagement as CEO?

9 A Yes. This document refreshes my recollection. It wasn't  
10 April 4th. It was April (audio gap). But yes, that's the  
11 document I was referring to.

12 Q Okay. What happened next, after -- after the -- after  
13 this was presented to you and Mr. Nelms? What did you guys  
14 do?

15 A So, what we wanted to do is understand what was our  
16 responsibility as a board. So we reached out to counsel to  
17 figure out how the process should work. We set up a  
18 compensation committee. It's called a comp committee; it's  
19 more I would call it a nomination committee or a governance  
20 committee also, because it was all about retaining Mr. Seery  
21 in that role.

22 We got advice from counsel on what the process should be.  
23 We reached out to our compensation consultant at Mercer, who  
24 had been providing us assistance in other areas of the  
25 company's compensation program, to talk to them about what the

1 various market comps, you know, compensation programs were and  
2 what would be an appropriate market comp for Mr. Seery's  
3 compensation, and, you know, moved forward that way.

4 MR. MORRIS: Ms. Canty, can you pull up Exhibit 4,  
5 please?

6 BY MR. MORRIS:

7 Q Do you know what this document is, Mr. Dubel?

8 A Yes. This looks like the minutes from the meeting of our  
9 first compensation committee on April 8th, compensation  
10 committee of Strand Advisors.

11 Q And this was a meeting between you and Mr. Nelms, with  
12 counsel; is that right?

13 A That is correct.

14 Q And this was precipitated by Mr. Seery's written proposal  
15 that was made a few days before that; is that fair?

16 A Well, I would say it was precipitated by the advice we had  
17 gotten through counsel that we should set up a compensation  
18 committee and consider what would be the appropriate way of  
19 retaining Mr. Seery, you know, as a chief executive officer.  
20 His proposal came in a couple of days earlier than that, and  
21 so this was our first official time to get together as a  
22 committee and review it and discuss the issue.

23 Q And was this a contemporaneous record of the steps that  
24 the compensation committee took to do its due diligence with  
25 respect to the proposal?

1 A It is.

2 Q Okay. Did the compensation committee --

3 MR. MORRIS: You can take that down, Ms. Canty.

4 BY MR. MORRIS:

5 Q Did the compensation committee communicate with the  
6 Creditors' Committee with respect to these matters?

7 A We did.

8 Q Can you --

9 A As a part of the protocols, one of the things I -- and I'd  
10 go back and re-read the protocol language, but one of the  
11 things it said was work with the UCC to determine who would be  
12 an appropriate CEO. And so we realized we would do that, and  
13 we started to reach out to the various members of the  
14 Creditors' Committee to discuss that.

15 Q Okay. And do you recall whether the compensation  
16 committee or the Debtor generally shared Mr. Seery's proposal  
17 with the Committee?

18 A We did. I don't recall the exact date, but we did share  
19 it with the UCC through the UCC counsel.

20 Q Do you recall if the report that was commissioned by the  
21 Debtor with respect to Mercer, the Mercer Report, was that  
22 shared with the Committee?

23 A It was.

24 Q Can you describe for Judge Jernigan your recollection as  
25 to, you know, the Committee's reaction and, you know, position

1 with respect to the proposed retention of Mr. Seery as CEO?

2 A We shared the report from Mercer with the Committee in --  
3 I think it was early May. And we spent time with them in the  
4 April time frame talking about the fact that we were going to  
5 be seeking Mr. Seery's appointment as CEO and telling them  
6 that we were going to be commissioning a report to make sure  
7 we had what we thought was market compensation.

8 The Committee was generally very supportive. They had  
9 been obviously experiencing Mr. Seery taking on that role of  
10 effectively the CEO for a period of time, so they understood  
11 where, you know, where he was coming from and what -- how he  
12 was going to operate the business.

13 They understood, to my knowledge and in my discussions,  
14 they understood the benefits of having a single person as the  
15 CEO rather than trying to manage the business by committee.  
16 We discussed with them why it made sense.

17 And so, you know, they were supportive of it. Obviously,  
18 we had to negotiate the terms of the compensation.

19 Q And did that take some time, to negotiate the compensation  
20 terms?

21 A It did. Initially, it was being done through myself and  
22 Mr. Nelms, working directly with the Committee. But, again,  
23 having been in that position of having to negotiate with the,  
24 you know, the committee on terms of my own personal  
25 compensation -- not this committee, but in other cases -- we

1 recognized that it was probably more efficient for Mr. Seery  
2 to speak directly with the Committee, Committee members. And  
3 so we asked him to pick up that, you know, responsibility  
4 also. And he did. He kept us informed every step of the way.  
5 And I, as the de facto chairman of the compensation committee,  
6 also spoke directly with the various members of the Committee  
7 during this time frame, where there was (echoing)  
8 communication about compensation.

9 Q Mr. Pomerantz mentioned it in his opening remarks, but do  
10 you recall kind of what the bigger issues were with respect to  
11 the proposed compensation terms with the Committee?

12 A Sure. The Committee -- well, there was always negotiation  
13 going on, obviously. The Committee, at the end of it, they  
14 had no problems with the monthly compensation, recognizing  
15 that whatever his board compensation would be would  
16 effectively be wrapped into the monthly compensation.

17 What the issues really came down to for them revolved  
18 around the restructuring fee that was being proposed, success  
19 fee, you know, what have you. And there was a lot of  
20 different views, as you can imagine, between the four members  
21 of the Committee as to how that should be set up.

22 Mr. Nelms and I were very cognizant that we did not want  
23 to have Mr. Seery (echoing) -- I'm sorry. I'm getting a lot  
24 of background noise here.

25 THE COURT: Yes. I'm not sure who needs to mute



1 their phone, but someone needs to mute their phone. Okay.

2 THE WITNESS: Thank you.

3 THE COURT: Uh-huh.

4 (Echoing subsides.)

5 THE WITNESS: So we were very concerned that  
6 structures not be put in place that could cause the potential,  
7 the appearance of a conflict between the role that Mr. Seery  
8 was playing and his compensation.

9 It's always a, you know, a challenging issue here, to make  
10 sure that, you know, a CEO of any company is looking out for  
11 the best interests of the estate and not looking out  
12 specifically for any particular creditor, equity, or group of  
13 creditors, just because that's the way the compensation was  
14 designed. And so that was a challenge.

15 At the end of the day, we wanted to have what we felt was  
16 fair compensation for the success fee and restructuring fee  
17 for Mr. Seery, because we wanted him incented to get the job  
18 done, as he has alluded to in his prior testimony as to what  
19 he's trying to do here. And so there did come a point where  
20 we could not get to a meeting of the minds and so we chose to  
21 move forward on the compensation with just the monthly agreed  
22 to. Mr. Seery was good enough to agree to that for just the  
23 monthly, and that we would put forward the restructuring fee  
24 at a later date.

25 BY MR. MORRIS:

1 Q Okay. Thank you. In addition to the CEO title, the  
2 Debtor is asking for the Court to appoint Mr. Seery as the CRO  
3 and the Foreign Representative; is that right?

4 A That is correct.

5 Q And why is the Debtor seeking that relief?

6 A Well, initially, the CRO was brought in, I believe it was  
7 the middle of October, when the case was filed and before the  
8 Independent Board was put in place. And there were reasons  
9 why, you know, the Committee had asked for the CRO to have  
10 certain responsibilities. Those carried through in the  
11 protocols.

12 And obviously, you know, we had no issues with those, but  
13 what we also felt, Mr. Nelms and I, and in consultation with  
14 Mr. Seery, was that it would be more appropriate to have one  
15 person be responsible for all of the issues within the  
16 company. And since there was an Independent Board, and since  
17 one of those Independent Board Members was becoming the CEO,  
18 the need for another individual to be the CRO might send  
19 conflicting signals inside the organization. And so we  
20 decided that it would be appropriate to put those  
21 responsibilities into Mr. Seery's lap. And we spoke with Mr.  
22 Sharp from DSI, and he agreed. And so that's the reason why  
23 we moved it forward that way.

24 Q Okay. I understood you to say that the meeting of the  
25 minds, at least conceptually, was somewhere around March 12th

1 in New York, or March 11th. I think the Judge may have asked  
2 the question or at least implied that she wanted to know kind  
3 of why it took so long to get the motion on file. I think  
4 you've discussed some of the issues, but just kind of in a  
5 bullet-point way, can you give the Judge an explanation as to,  
6 you know, why it took several months to get this motion in  
7 front of the Court if a meeting of the minds occurred back in  
8 March?

9 A Sure. I believe the motion was filed on the -- I think it  
10 was the 22nd or so of June.

11 Q Okay.

12 A And so we -- we asked Mr. Seery. He accepted the  
13 responsibility in the middle of March. Right at that point in  
14 time was when the whole pandemic issue was, you know, really  
15 coming hot and heavy at the company. As Mr. Seery testified  
16 earlier, he had -- he was spending a tremendous amount of time  
17 just focusing on the operations of the business, focusing on  
18 the assets, dealing with the prime accounts, the select  
19 accounts, working with Jeff Reeves, working with the other  
20 individual investments that we had, to make sure that those  
21 were under control.

22 I would say I applaud him for putting the business first  
23 in front of him, and then I think probably at 1:00 o'clock in  
24 the morning he was able to finally sit down and put together  
25 his own compensation request.

1 We did need time to go through with the Mercer folks and  
2 get, you know, the market information, and that took a lot of,  
3 you know, a lot of time.

4 And then, more importantly, we wanted to make sure we  
5 could get something in front of the Court that was agreed to  
6 by the Committee. So we did share the information with the  
7 Committee. We spent a lot of time in negotiations with the  
8 Committee, trying to get to a resolution. As I said earlier,  
9 we asked Mr. Seery to step in and there be, you know, one-on-  
10 one discussions to maybe shortcut some of that.

11 And finally, at the point in time where we realized we  
12 could not get a full, you know, fully-agreed compensation  
13 program, we asked him to just break it down into the monthly,  
14 and then come back for a restructuring bonus at the end of the  
15 case.

16 And so all of that, while trying to manage the business in  
17 the COVID era, is what took such a long period of time.

18 Q Did it also take some time to obtain appropriate D&O  
19 insurance for Mr. Seery as the CEO?

20 A It did. We had to, as the Board of Strand, we had to set  
21 up a D&O program for the Board members when we first got  
22 involved back in January. That took a tremendous amount of  
23 time. It was very difficult to obtain in the marketplace, for  
24 any number of reasons, but mainly because the insurance market  
25 understood what Highland was all about and the various

1 players, and they were very reticent to insure Highland.

2 So, because we were Strand, because there were other  
3 protections that were afforded to the Independent Directors,  
4 we were able to obtain it.

5 When we asked the various carriers to add Mr. Seery on as  
6 the CEO for HCMLP, it was very challenging to put folks on.  
7 We were eventually able to get our first layer to sign on, the  
8 first-layer insurer. The second layer would not do it, and we  
9 had to go find a third carrier who would do it. And we  
10 actually got that done at some time in the latter part of  
11 June, right after we had filed the motion.

12 Q Okay.

13 MR. MORRIS: Your Honor, I've got just a few more  
14 questions, but they're going to be devoted to the DSI motion.  
15 I don't know if you wanted to ask -- if you had any questions  
16 on the motion with respect to Mr. Seery or I should just  
17 continue on.

18 THE COURT: I do not have questions. You can  
19 continue.

20 MR. MORRIS: Okay.

21 BY MR. MORRIS:

22 Q Okay. So, let's just finish up, Mr. Dubel. There is a  
23 second motion in front of the Court, and this one is for the  
24 appointment of DSI as financial advisor. Are you familiar  
25 with that motion?

1 A I am.

2 Q Does the Board unanimously support that motion?

3 A We do.

4 Q Has the Board concluded, in an exercise of its independent  
5 business judgment, that the engagement of DSI as financial  
6 advisor is in the Debtors' best interests?

7 A We have. Yes.

8 Q Can you explain to the Court why the Board reached that  
9 conclusion?

10 A Well, we do need the services of a financial advisor.  
11 It's very important in this case to have an independent, you  
12 know, restructuring, you know, financial advisor to assist us.  
13 As Mr. Seery testified earlier, they have been very  
14 instrumental in helping him prepare the financial analysis  
15 that has been part of what he's been using to start  
16 negotiating and working forward on the -- putting together a  
17 plan of reorganization.

18 They've also spent a tremendous amount of time acting as a  
19 bridge to FTI, the Committee's financial advisors, which is  
20 very common in these types of cases. And so that's been  
21 extremely helpful. And that role needs to continue.

22 They also are handling all of -- all the administrative  
23 bankruptcy issues, the SOFAs, the MORs. They're doing a lot  
24 of work for us, not necessarily specifically on the large  
25 claims, but on helping us analyze and review all of the other



1 myriad of -- I think it's two hundred something claims that  
2 have been filed in the case.

3 So they've been here since -- I guess they came in pre-  
4 filing. They have a lot of history and knowledge, and we want  
5 to continue to utilize that knowledge as we continue to move  
6 forward. So that's why. And the Board is very comfortable  
7 with the job they've been doing, and so we felt it was  
8 appropriate to continue to use them as the financial advisor,  
9 just in a slightly different role.

10 MR. MORRIS: Your Honor, I have no more questions of  
11 Mr. Dubel.

12 THE COURT: All right. Well, I'm going to just jump  
13 in and ask my own questions, and then I will -- I'll, you  
14 know, offer him up for cross if people will promise to  
15 restrict it to employment terms.

16 EXAMINATION BY THE COURT

17 THE COURT: So, what -- my question is about Mr.  
18 Sharp. As I recall, the compensation is not going to change  
19 at all, even though the role is changing. He won't be CRO  
20 anymore, Mr. Sharp. He won't be the Foreign Representative  
21 anymore. But obviously, he and his firm will remain very  
22 engaged as financial advisor.

23 What I'm getting at is there was a \$100,000 per month flat  
24 fee for Mr. Sharp, and then other professionals at DSI will  
25 bill by the hour. Tell me why the Board thinks that's still

1 the appropriate compensation package with the modified role of  
2 Mr. Sharp. I'm getting at, \$100,000 a month, is that still  
3 the right thing, or hourly compensation, did you discuss that,  
4 and why is --

5 THE WITNESS: We did, Your Honor. And I'll be  
6 (inaudible) with you. I don't know who negotiated that  
7 originally for -- with, you know, with DSI, but I find it to  
8 be a very fair-to-the-Debtor compensation package of \$100,000  
9 for Mr. Sharp, but it also includes Mr. Caruso, who Mr. Seery  
10 has referenced earlier. I think it was a very good  
11 negotiation that was had by the Debtor.

12 So when we looked at it, we said, if we switch to a  
13 straight hourly, based upon the amount of time and effort  
14 that's being put in by the two of those individuals, it might  
15 cost us a little bit more. So we chose to continue it at that  
16 level.

17 And I know Mr. Seery will continue to lean on those two  
18 folks and get his money's worth. I'm confident of that.

19 THE COURT: Okay. You just reminded me of something  
20 that I did not remember, I guess. Mr. -- we're getting two  
21 for the price of one, is basically the -- Mr. Caruso does not  
22 bill by the hour?

23 THE WITNESS: They -- they work together. It's their  
24 compensation. I would imagine they keep hours internally,  
25 just to keep track of it, but what they bill us for the two

1 individuals, Mr. Caruso and Mr. Sharp, is a flat fee of  
2 \$100,000 for the two of them.

3 THE COURT: Okay. All right. And do you remember,  
4 by comparison, the financial advisor to the Committee -- is it  
5 FDI? Whoever it is.

6 THE WITNESS: It -- it --

7 THE COURT: How are they getting compensated? Is it  
8 strictly on an hourly basis, or is there also a combo flat fee  
9 and hourly?

10 THE WITNESS: (echoing) on an hourly basis, and I  
11 have one of their most recent charts. It was the May fee  
12 application that they just filed, and they -- they bill in a  
13 range from \$1,245 an hour for, you know, senior managing  
14 directors, to \$875 an hour for managing directors, down to,  
15 you know, \$690 an hour for directors. Yeah. A very fair and  
16 appropriate marketplace compensation, but I think what we are  
17 incurring under the structure that we have for DSI is below  
18 that.

19 THE COURT: If those two guys were billing normal  
20 market hourly fees, you think it would be busting \$100,000 a  
21 month, perhaps?

22 THE WITNESS: I think it -- I think it would be well  
23 in excess of \$100,000, --

24 THE COURT: Okay.

25 THE WITNESS: -- based upon the hours that we have

1 seen to date from them, Your Honor.

2 THE COURT: Okay. Now, does anyone else have  
3 questions for Mr. Dubel related to these employment  
4 arrangements proposed?

5 (No response.)

6 THE COURT: I guess not. I actually have one more  
7 question. I think it will be for my benefit, but maybe for  
8 benefit of parties in interest, I hope. You made a comment  
9 about getting insurance for Mr. Seery, and you said it was a  
10 bit of a challenge because insurers in the marketplace kind of  
11 knew what Highland was about. I think those were your words.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Here is my question. As far as knowing  
14 what Highland is about, other persons, not me, have used the  
15 words that people were Mr. Dondero's puppet master, or he was  
16 the puppet master, had his hands all over this, here and  
17 there. And we obviously endeavored to change that with the  
18 new Board in place. What would you say if people out there  
19 think Dondero still might be a puppet master? What -- I mean,  
20 is there any concern there that you could address?

21 THE WITNESS: Sure. And let me, let me take it in  
22 two parts, because I think it's important for you to  
23 understand from a third-party insurer's point of view. The  
24 D&O marketplace has seen a lot of litigation surrounding the  
25 Highland Capital name. And because of that, that obviously

1 causes them concern. Their business is to write insurance and  
2 never pay a dime. I ran an insurance company for six years,  
3 and you never want to pay a dime out, you just want to collect  
4 premiums.

5 THE COURT: Yes. And I probably prefaced this in a  
6 confusing way. I'm really not going back to the insurance. I  
7 just said that comment, when you were talking about insurance,  
8 made me want to ask, for my benefit and for other parties'  
9 benefit: How much control, if any, does Dondero have? In  
10 theory, he was not supposed to have any control over the  
11 Debtor anymore, but can you say something to make us all feel  
12 comfortable that, if he ever was a puppet master, he's not a  
13 puppet master anymore?

14 THE WITNESS: Well, I won't use that terminology.  
15 What I will say is, since January 9th --

16 THE COURT: Yes. It was someone else's term, not  
17 mine. I'm just repeating it.

18 THE WITNESS: That's okay. Since January 9th, when  
19 the Independent Board was put in place, the Independent Board  
20 has had the responsibility, is responsible for the operations  
21 of this business. Mr. Dondero, as Mr. Seery alluded to  
22 earlier in talking about the number of people in the  
23 organization, has other businesses that he's involved with  
24 that operate out of the offices through shared services. But  
25 it's very clear to all the employees that the Independent

Dubel - Examination by the Court

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1 Board is responsible for HCMLP and that since, really, you  
2 know, the early March time frame, that Mr. Seery is the CEO.

3 So there is no concern on my part that Mr. Dondero is  
4 having undue influence. He is still our portfolio manager,  
5 but Mr. Seery is working with him as appropriate, and I have  
6 no concern that Mr. Seery is not getting the job done and  
7 getting any undue influence from Mr. Dondero.

8 THE COURT: All right. Thank you.

9 Mr. Morris, do you have any redirect?

10 MR. MORRIS: I do not, Your Honor. I appreciate the  
11 question, and I think Mr. Dubel answered it appropriately.

12 THE COURT: All right. Thank you, Mr. Dubel. I do  
13 appreciate your testimony today. It was helpful.

14 All right. Mr. Morris, --

15 THE WITNESS: Thank you, ma'am.

16 THE COURT: -- what else do you have? You have Mr.  
17 Sharp on your witness list. Did you want to --

18 MR. SHARP: I'm here, Your Honor.

19 THE COURT: -- put him on?

20 MR. MORRIS: I'm intending to do that. If Your Honor  
21 thinks it's not necessary, I don't need to ask more questions.  
22 It's a relatively brief examination that will just focus on  
23 the slight change in his role.

24 THE COURT: All right. Well, if you feel the need to  
25 make a record, you may. I just have one question I want to

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Sharp - Examination by the Court

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1 ask him, to shore up the record.

2 MR. MORRIS: So perhaps, Your Honor, could we swear  
3 him in, you ask your question, and then I'll see if there's  
4 (echoing)?

5 THE COURT: All right. Mr. Sharp, I see you there.  
6 Please raise your right hand.

7 (Echoing.)

8 BRADLEY SHARP, DEBTORS' WITNESS, SWORN

9 THE COURT: Thank you. We were getting some  
10 distortion there. So, again, if you're not Mr. Sharp, please  
11 put your phone on mute.

12 EXAMINATION BY THE COURT

13 THE COURT: All right. Mr. Sharp, I just wanted to  
14 hear from you how many hours a month do you think that you and  
15 Mr. Caruso are working on the Highland matter?

16 THE WITNESS: I don't have the hours in front of me,  
17 Your Honor, but I think Mr. Dubel unfortunately alluded to  
18 poor negotiating on DSI's part. That'd be my responsibility,  
19 because I'm the one that did that.

20 From October through May, if you look at the time for Mr.  
21 Caruso and myself, DSI has provided about a \$730,000 discount.  
22 So if we were actually being paid on our hourly rate, our fees  
23 would be \$730,000 more than the \$100,000 a month. We  
24 typically run -- my rate is \$720 an hour. I think Mr.  
25 Caruso's is about the same. The time for the two of us each

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1 month runs about \$200,000, which we then write down to  
2 \$100,000.

3 THE COURT: All right.

4 THE WITNESS: (echoing) a month.

5 THE COURT: Okay. That answers my question. Mr.  
6 Morris, is there anything you wanted to put on the record?

7 DIRECT EXAMINATION

8 BY MR. MORRIS:

9 Q Mr. Sharp, are you the person who was (echoing) with the  
10 (echoing) CRO (echoing) Seery (echoing)?

11 A Yes, I am. I think it's much more efficient, frankly.  
12 We've worked very well with Mr. Seery since the beginning,  
13 since January 9th. That's going to continue. I think it  
14 takes away some confusion, both internally and externally, in  
15 that, you know, Mr. Seery is the CEO, the CRO, and everyone  
16 knows that we are providing the analytical and support for him  
17 with whatever he needs.

18 Q And I want to focus just for a second on DSI's (echoing).  
19 Is DSI's responsibilities in the case changing at all?

20 A No. No. We have been working for the Board and  
21 responding directly to Mr. Seery. You know, as Mr. Seery  
22 testified, he works directly with myself and directly with my  
23 team, and that's not going to change.

24 MR. MORRIS: I have no further questions, Your Honor.

25 THE COURT: All right. Anyone have any questions

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1 regarding the employment terms?

2 (No response.)

3 THE COURT: All right. Well, I thank you, Mr. Sharp.  
4 We appreciate it.

5 All right. Mr. --

6 MR. MORRIS: The Debtor rests, Your Honor.

7 THE COURT: Okay. Well, I presume no one else had a  
8 witness to call. Again, we didn't have any responsive  
9 pleadings on this.

10 So, with that, I am going to turn to the Committee counsel  
11 at this point. Mr. Clemente, I know you said early on that  
12 you wanted to make some comments, so this is your opportunity.

13 MR. CLEMENTE: Well, thank you, Your Honor. Matt  
14 Clemente from Sidley on behalf of the Committee.

15 And just very briefly, Your Honor, as you know, we did not  
16 file an objection. It sounds from what we heard today that  
17 Mr. Seery and the Board are working hard, which is, frankly,  
18 what I think you expect and what we expect of them.

19 We don't have an objection to the retention of Mr. Seery  
20 as CEO at \$150,000 a month, which is inclusive of director  
21 fees. And as Mr. Pomerantz said, the Committee does not agree  
22 -- in fact, that was the source of quite a bit of the  
23 negotiation of the last couple of months -- with the bonus  
24 proposal. But, again, we understand that that will be  
25 addressed by a separate motion.

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1           Your Honor, we appreciate Mr. Seery's testimony to advise  
2 you and to create the record for purposes of today's  
3 uncontested matter. And obviously, the Committee -- there's  
4 no live objection. And while the Committee may have different  
5 views of what Mr. Seery said -- for example, the working of  
6 the protocols, the sophistication of the advisors to the  
7 Committee -- again, for purposes of the matter before the  
8 Court today, we're not going to take any issue with any of  
9 those statements, Your Honor, but reserve the right to do so  
10 again in future if it becomes necessary.

11           So, with that, Your Honor, I have no further comments, but  
12 I did want to make those couple comments for the record, to  
13 make sure Your Honor understood where the Committee is coming  
14 from.

15           THE COURT: Okay. Thank you. Does anyone else wish  
16 to make comments about the applications before the Court?

17           (No response.)

18           THE COURT: All right. Mr. Morris, I'll turn it back  
19 to you.

20           I found in my notes one question that I had. Looking at  
21 your Exhibit 3 is what made me decide I have this question.  
22 The Exhibit 3 was the e-mail exchange of Sunday, April 5th  
23 amongst the Board members. Let me ask you this. There was  
24 something in there regarding Mr. Seery, this would be a full-  
25 time position, but he would be permitted to serve on outside

1 boards of directors. Is that a term that survived, or no?

2 And if it did, I want to ask how many outside board

3 memberships does he have? Again, I expect, like I think

4 everyone, that it's going to be very full-time, so I don't

5 want to hear that he's on 12 other boards. How did that --

6 MR. POMERANTZ: Your Honor, this is Jeff Pomerantz.

7 Since I was the one who actually was involved in negotiations

8 more than Mr. Morris, --

9 THE COURT: Okay.

10 MR. POMERANTZ: -- maybe I can answer. I believe it

11 was something that survived. I am not aware of any other

12 boards that Mr. Seery is on. And if he has actually been able

13 to do anything meaningful while performing what is I think

14 probably 200 hours a month and being available 24/7, I take my

15 hat off to him. But I would ask him to confirm if he has any

16 other material role, but I have not seen anything.

17 THE COURT: All right. What about that, Mr. Seery?

18 MR. SEERY: I -- currently, I'm not on any other

19 outside boards except two charities.

20 THE COURT: Okay.

21 MR. SEERY: One is a foundation called the

22 (inaudible) Foundation, which is a charity for (inaudible)

23 individuals, disabled folks, and -- most of whom are abused.

24 And I'm also involved with a charity, I'm not on the board but

25 on a funding committee for Team Rubicon, which is a reference

1 -- reference service, assistance in disasters. So they don't  
2 take time like this, and so I'm not going to be involved in  
3 any --

4 THE COURT: Okay. Thank you. That's what I would  
5 hope to hear. I didn't want to hear that you were on, you  
6 know, 12 other for-profit boards.

7 So, all right. So, Mr. Morris, Mr. Pomerantz, do you have  
8 anything to say before we wrap up this topic?

9 MR. POMERANTZ: Your Honor, I'm happy to give Your  
10 Honor a closing statement if you think it's necessary. I  
11 think you know what I would say, to summarize. But I think  
12 we've been at this a while, so (inaudible).

13 So unless Your Honor has any questions for me, I would  
14 just say that the evidentiary record, I believe, supports the  
15 entry of an order approving both the Motion to Employ Mr.  
16 Seery as the Chief Executive Officer, CRO, and Foreign  
17 Representative, and the Motion to Appoint DSI as the Financial  
18 Advisor.

19 THE COURT: All right. Well, I am going to grant  
20 both of these motions. Again, as for Mr. Seery, it's as  
21 modified per the agreements with the Committee, that  
22 modification being that, as for any bonuses, we're just  
23 deferring to another day whether Mr. Seery is going to get any  
24 bonuses related to a plan, what kind of plan it might be, a  
25 case resolution plan or a monetization vehicle plan.



1           You know, I really hope, frankly, Mr. Seery is before me  
2 seeking a bonus in the very near future and we're all happy  
3 about the prospect of paying him a bonus because a plan has  
4 been achieved, hopefully a case resolution plan. I will just  
5 tell you right now, I will have a big smile on my face and  
6 will warmly consider that if we get a great result here.

7           But it's deferred to another day. So I do find it's --  
8 the evidence amply shows a sound business justification and  
9 reasonable business judgment on the part of the Debtor in  
10 proposing that Mr. Seery be CEO and CRO, essentially, and a  
11 foreign representative, where necessary, at the base pay of  
12 \$150,000 per month, again, with bonuses to be considered at  
13 appropriate times down the road if we feel that that is a good  
14 thing for Mr. Seery to be paid.

15           And I likewise find that, under 327, 328, 363, the amended  
16 application with regard to DSI Specialists and Mr. Sharp and  
17 Mr. Caruso should be granted, it appearing to be reasonable  
18 business judgment and in the best interests of the estate and  
19 appropriate in all ways under those Code sections.

20           All right. So we are going to look for orders on those  
21 two matters.

22           Now, unless you have other housekeeping matters you want  
23 to talk about, I want to circle back to the mediation topic.  
24 Mr. Pomerantz, Mr. Morris, anything you wanted to raise?

25           MR. POMERANTZ: There is actually one other

1 housekeeping matter that Ms. Patel and I have been speaking  
2 about and we said we would raise before Your Honor.

3 As Your Honor heard at the last hearing, we had filed an  
4 objection to the Acis claim. We initially set the objection  
5 for August 6th. Ms. Patel reached out to us, I understand, I  
6 remember at the last hearing indicated that August 6th was  
7 difficult for her. And especially since we were having the  
8 mediation, we had talked to her about a rescheduling. So we  
9 are intending put the matter on the September 10th calendar.  
10 We have also granted Acis an extension to file a response to  
11 July 31st.

12 What I think we would like the Court's input on, and not  
13 now, but we would suggest having it done at the next hearing,  
14 which is July 21st, as I'm sure Your Honor has not yet read  
15 our objection, but it's a quite lengthy objection, I think 55,  
16 60 pages. There's a lot of issues there. There are some  
17 factual issues, some -- there are some legal issues. There  
18 are some combination of factual and legal issues.

19 We think it would be helpful to the process to set up a  
20 status conference with Your Honor -- again, to be held perhaps  
21 on July 21st, because discovery motions are pending -- where  
22 we could walk through with Your Honor what exactly everyone  
23 would intend to accomplish on September 10th. We don't  
24 believe it should just be a status conference. We searched  
25 other dates. On the other hand, I think both parties will

1 have different views on what exactly will be at issue. But I  
2 think it would be helpful, from both sides, to hear Your  
3 Honor's expectations and to get some ground rules so we can  
4 make a hearing, if necessary, on September 10th as productive  
5 as possible.

6 THE COURT: All right. So, in writing down dates,  
7 did you tell me what -- a deadline you have given Acis, or  
8 what is the deadline that would apply under the Rules versus  
9 what you have agreed to? Is there something different you've  
10 agreed to?

11 MR. POMERANTZ: Sure. I believe, for a hearing on  
12 August 6th, based upon when we filed it, I believe their  
13 objection would have been due July 23rd or thereabouts. They  
14 have asked us for July 31st, and I don't want to be as  
15 presumptuous, Your Honor, to say that I have given them the  
16 extension. I know that's up to you, Your Honor, to do so.  
17 The Debtor does not have any opposition to an extension in  
18 that respect, especially given the fact that we're not going  
19 to have a hearing until September, although it's obviously  
20 going to be important to be able to move forward with  
21 negotiations to understand what their specific position is,  
22 and, of course, for a mediator to look at both as well.

23 So, again, it's July 31st, September 10th, and then  
24 setting up something with Your Honor, whether it be July 21st  
25 or some other date, to walk through Your Honor what that

1 hearing will look like so it could be most efficient.

2 THE COURT: All right. Well, I am agreeable to that  
3 set of dates and deadlines. Ms. Patel, did you want to say  
4 anything about it?

5 MS. PATEL: No, Your Honor. Mr. Pomerantz hit the  
6 salient terms. Yes, July 31st is the agreed response date.  
7 And that allows, frankly, parties to -- an opportunity --  
8 allows Acis the opportunity to meaningfully brief the issues,  
9 as Mr. Pomerantz indicated.

10 It's a 60-page objection. It's very weighty. There's a  
11 lot of issues that require due consideration. So we have  
12 agreed on that extended date. It's in sufficient time to  
13 allow the parties time to read a response and analyze it ahead  
14 of a mediation in August.

15 And as Mr. Pomerantz indicated, yes, the parties would  
16 like -- effectively, I think he -- he might have referred to  
17 it as a status conference. Apologies, my WebEx is cutting in  
18 and out a little bit this afternoon. But I think it's  
19 probably a status conference/scheduling conference so we can  
20 talk about what the trial of the claim objection is going to  
21 look like and how it should be structured. And I think, as  
22 Mr. Pomerantz alluded to, parties may have very different  
23 contexts with respect to that, but we want to just run it by  
24 Your Honor, and ultimately it is going to be up to Your Honor  
25 with respect to how the trial goes forward.

1 THE COURT: All right. Well, I hope that you all are  
2 going to have lots of specific thoughts to share on what the  
3 hearing on September 10th would look like, because, holy cow,  
4 a \$70 million proof of claim that -- I haven't looked at your  
5 proof of claim, but it is presumably based on the 34 counts in  
6 the adversary proceeding filed in the Acis case, and maybe  
7 then some.

8 So, you know, I don't know how in the world, if we had to  
9 have a contested hearing on September 10th, we could get that  
10 all done in one day.

11 MR. POMERANTZ: Your Honor, Jeff Pomerantz again.  
12 Without getting ahead of ourselves, at least the Debtors' view  
13 is there are some threshold legal issues --

14 THE COURT: Okay.

15 MR. POMERANTZ: -- that are raised in the objection.  
16 And then there are, of course, a series of issues that are  
17 factual-intensive.

18 So what we intend to present is how we think we can  
19 efficiently deal with it. Again, it's not our expectation to  
20 have a lengthy trial on the entire claim objection. But,  
21 again, Ms. Patel and I agreed that what we weren't going to do  
22 is turn this into a status conference.

23 THE COURT: Okay.

24 MR. POMERANTZ: To the effect that neither party was  
25 ready. I would just leave it at that --

1 THE COURT: Okay.

2 MR. POMERANTZ: -- and say we'd be prepared to talk  
3 with you on the 21st.

4 THE COURT: Okay. Well, we -- we'll use that setting  
5 partly as a status conference to talk about the September 10th  
6 hearing. And, again, I hope you both will have some specific  
7 ideas to give me.

8 So, July 21st, we have -- remind me what we have. We are  
9 so busy, I haven't looked one week ahead to --

10 MR. POMERANTZ: I believe, and Mr. Morris could  
11 correct me if I get ahead of ourselves. I know there's been  
12 discussions between us and the Committee on two very -- two,  
13 in some sense, the opposite sides of the coin -- discovery  
14 motions that are pending before Your Honor. I thought July  
15 21st may have been pre-obtained. Again, I could be ahead of  
16 my partner there.

17 THE COURT: Okay. That sounds like something that  
18 I've set on an expedited basis in the past few days. Mr.  
19 Morris, Mr. Clemente -- Mr. Clemente filed a motion, or  
20 someone from their shop filed a motion --

21 MR. CLEMENTE: Your Honor? Your Honor?

22 THE COURT: -- during the middle of our last hearing,  
23 as I recall. And I was kind of surprised to get out of court  
24 and learn about it. But you're saying you haven't gotten  
25 information you've been asking for for months, and we also



1 have a motion for a protective order.

2 So, just give me a short -- I'm trying to figure out how  
3 much time we're going to be in court next week on the 21st.  
4 It's a discovery dispute.

5 MR. POMERANTZ: And I'll --

6 THE COURT: So, Mr. Pomerantz? Go ahead.

7 MR. POMERANTZ: Your Honor, if my colleague, Paige  
8 Montgomery, is on, she's in a better position to address that.  
9 I don't know if Ms. Montgomery is on.

10 MS. MONTGOMERY: I'm here. I don't -- my WebEx has  
11 been cutting in and out, but I think (inaudible) hear me.

12 THE COURT: We can hear you, but we can't --

13 MR. POMERANTZ: Yes, we can.

14 THE COURT: Oh, there you are. We can now see you as  
15 well. So, --

16 MS. MONTGOMERY: Yes, Your Honor. I think the amount  
17 of time that might be required for the discovery motions is  
18 going to be dependent on the number of third-party objections  
19 that may or may not be filed tomorrow. We've been in  
20 communication with a number of different parties over the last  
21 couple of days, trying to resolve those.

22 But I think, if it were just the two motions and the two  
23 parties that filed those, John, I don't know if you disagree,  
24 but I'd say that's probably an hour. I just don't know how  
25 many other people -- I don't know how many other people will

1 want to participate, Your Honor.

2 THE COURT: Okay. Well, it's going to be whatever  
3 it's going to be, but we're going to have -- the main event on  
4 the 21st is going to be this document discovery contest, and I  
5 guess there's a related motion for protective order. But I  
6 don't know how much it's going to be about resisting producing  
7 documents versus we'll produce documents if we have a  
8 protective order.

9 Mr. Morris, can you, in, you know, a few seconds, answer  
10 that?

11 MR. MORRIS: Sure. As the Debtor, we're trying to --  
12 we've got certain interests to protect. We thought we were in  
13 a different place in the middle of June, and, you know, this  
14 proposal that the Committee made for the first time on July --  
15 on June 26th is really what, from my perspective, prompted us  
16 to be here.

17 But we've made a proposal to the Committee. We haven't  
18 received a response to that. We're trying to address these  
19 issues. But it's not, you know, it's not contentious. I  
20 think our interests are legitimate. I think the motion that  
21 we made is either for a protective order or for an order  
22 directing us to produce the documents. Because as the motion  
23 itself sets forth, Your Honor, the Debtor has certain  
24 contractual and other obligations to some third parties. We  
25 have given notice to those third parties of our -- of our

1 intent to make this motion, because we are kind of between a  
2 rock and a hard place. We can't produce the documents  
3 without, you know, potentially violating obligations to third  
4 parties.

5 And so we'd just ask the Court to be the referee here, to  
6 make the decision as to how it gets resolved. And we've given  
7 notice to these third parties so that they fairly have an  
8 opportunity to be heard, too. And I've been in communication  
9 with some of them as well, and I've encouraged them to speak  
10 with the Debtor, because ultimately, you know, if the Debtor  
11 and the third parties can come to an agreement on the  
12 production of the documents, you know, that will resolve, you  
13 know, a substantial piece of the issue.

14 MR. POMERANTZ: You mentioned the -- you meant the  
15 Committee, John, not the Debtor.

16 MR. MORRIS: I apologize. Yes. Thank you.

17 MR. POMERANTZ: Thank you, John.

18 THE COURT: Okay. Well, I hope you have this largely  
19 worked out. Obviously, I hope that. You know, I just  
20 remember doing a very quick pass through the Committee's  
21 motion, but I do remember them saying they've been trying to  
22 get these documents for a very long time, and I think I recall  
23 there's pressure building now because I gave you a 90-day  
24 deadline to either file a lawsuit regarding the CLO Holdco  
25 issues that we had a hearing on a few weeks ago, a couple of

1 weeks ago, or I'm probably going to release the money in the  
2 registry of the Court. And so that's part of why you're  
3 trying to get these documents as soon as possible, right, Ms.  
4 Montgomery?

5 MS. MONTGOMERY: Yes, Your Honor.

6 THE COURT: Okay. All right. You all try to work  
7 this out. Okay?

8 MR. CLEMENTE: Thank you.

9 THE COURT: Well, I was partly pressing the issue of  
10 what's July 21st going to look like because I think we may  
11 carry over the discussion about mediation. We're going to  
12 start it right now, but I think we may have to carry it over  
13 to the 21st, and I hope finally kind of get a game plan  
14 together on that day.

15 So, I wanted Mr. Seery to be available. Mr. Seery is --  
16 if you're still there somewhere. You're very important, in my  
17 view, to mediation potentially being successful here -- and  
18 the whole Board is, for that matter -- because -- well, let me  
19 digress a minute.

20 Mediation is going to be very tough here. We all know  
21 that mediation tends to be more likely to succeed if we've got  
22 face-to-face, in-person participation. And as I said last  
23 week, I just don't know how I can order people to be in face-  
24 to-face mediation right now. I just -- we've got people  
25 spread out, and I think it would be very, very bad to order

1 face-to-face mediation right now.

2 But on the topic of mediation, you know, I've heard some  
3 things that, you know, we all know, but I've heard some things  
4 from Mr. Seery that are important to stress today. This isn't  
5 the type of case that needs to be in bankruptcy for months and  
6 months and months and months. Okay? We have the issue of the  
7 professional fees accruing, of course, like every case. But  
8 we have a company where -- it's a strange fit for bankruptcy,  
9 right, this kind of company. And it's so dependent on people  
10 to provide value. And people can bolt. You know, people can  
11 get weary of the bankruptcy and want to be somewhere else  
12 where that taint is not there in the marketplace.

13 The issue of the UCC protocols was brought up by Mr.  
14 Seery, and I know that is something that is going to be  
15 cumbersome, you know, for this company to be in bankruptcy  
16 long-term.

17 So, I want to go to Mr. Seery, and it may be unusual for  
18 me to reach out to you and ask this, but I want to hear from  
19 you: Do you think mediation is a waste-of-time pipe dream,  
20 for lack of a better term? I really want mediation to happen,  
21 because I don't know how we quickly get a confirmed plan if we  
22 have, well, the voting issue, for one, right? We have to, at  
23 a minimum, figure out what is UBS's voting claim. What's its  
24 claim for voting purposes? What is Acis's claim for voting  
25 purposes? A looming, huge issue in my mind. So I feel like

1 we've got to have mediation. We've got to get a strong shot  
2 at getting these two claims liquidated, at least for voting  
3 purposes, if not overall.

4 So, is this a pipe dream, Mr. Seery, in your view, that  
5 mediation might get to resolution on these two claims? What  
6 do you think about it?

7 MR. SEERY: The quick answer, Your Honor, is I don't  
8 think it's a pipe dream. I think there's a legitimate shot to  
9 move parties together.

10 Let me just say one thing that -- reflecting on what Mr.  
11 Clemente said. I want to make clear for the record that, to  
12 the extent I misspoke, and it would have been misspeaking, I  
13 have no negative implication regarding the sophistication,  
14 professionalism, or focus of Sidley --

15 THE COURT: Uh-huh.

16 MR. SEERY: -- or FTI or any of the professionals. I  
17 know these folks. They're really good. They're very  
18 sophisticated. I have the highest professional and personal  
19 respect for them. So, to the extent that I misspoke, I  
20 apologize.

21 THE COURT: I don't think you did, and that's not how  
22 I heard it --

23 MR. SEERY: Okay.

24 THE COURT: -- and that's certainly not how I meant  
25 it. It's just a fact of bankruptcy that it's expensive.



1 Okay? So, --

2 MR. SEERY: Yeah.

3 THE COURT: Right.

4 MR. SEERY: I just wanted that to be clear.

5 I think, particularly with respect, Your Honor, to the  
6 Acis and UBS claims, our professionals have done a lot of work  
7 on them. Obviously, the professionals for Acis and UBS have  
8 done a lot of work on them. There may be things that we know,  
9 the perspectives that we have, and perspectives that the other  
10 side has, that may not be as well-founded as each side thinks.  
11 It could be very valuable to have a third-party objective  
12 observer, cajoler, somebody who's strong, to help move the  
13 parties off of certain positions.

14 We would like to think, as a Board, Independent Board, and  
15 I'd like to think as an Independent Director and now as a CEO,  
16 I didn't really have a -- the proverbial dog in that fight for  
17 either of those claims. I wasn't -- I'm not a Highland  
18 employee. I don't have any animus towards any of the sides.  
19 I don't have any history with any of the sides.

20 But I'm realistic that I take a perspective around certain  
21 claims and how they're brought, the factual and legal basis  
22 for them. And I get a lot of that information from Highland  
23 employees, and we use that information to then perform the  
24 analysis with our professionals.

25 Likewise, these parties have been involved in, on the

1 other side, very entrenched disputes with Highland and  
2 Highland employees. And they've dug in on their positions.

3 Having a third party hear each side and start to move  
4 could give us the chance to break it open. I think there's --  
5 and there's two really important aspects. One is the claim  
6 amount, and then, obviously, the distributions on the claims:  
7 How to make those, how much are they, when are they made? We  
8 can work on both of those, and I think we need some help  
9 moving us both on the claim amounts and on how to make the  
10 distributions.

11 We've made progress with Redeemer because even though they  
12 had -- they had an arbitration award, so we knew what the  
13 outside would be. Now, Redeemer and their attorneys are very  
14 good and very creative. They could stretch the outside in  
15 those discussions. I won't get into what they are. But we  
16 were able to more easily fashion around the particulars of  
17 that claim because there was that judgment from the  
18 arbitrators that, while it hasn't been entered, gave us much  
19 more guidelines as to where we could look. The other claims  
20 are much more amorphous, at least at this stage, and having a  
21 third party help us develop perhaps closer goal lines would be  
22 useful, in my opinion.

23 But, again, I think it's very important that we do it  
24 quickly. I think we -- you know, somebody who is focused,  
25 strong. I'm sure they'll be highly intelligent and versed in

1 the field, but somebody who's got the opportunity and time to  
2 do it. And then, if it's unsuccessful, then, as Mr. Pomerantz  
3 and Ms. Patel alluded to, then perhaps we may need some  
4 judicial help to move those goal lines a little bit.

5 But I do think that mediation -- and I apologize for the  
6 length of my answer -- could be a very helpful way to do it,  
7 provided we get there quickly.

8 THE COURT: All right. I guess my other question I  
9 wanted your view on is structure. You know, when someone --  
10 Mr. Pomerantz, I think -- told me that he or others had  
11 reached out to our judges in Houston, Judge Jones and Judge  
12 Isgur, my initial reaction -- and, frankly, my continued  
13 thought on that -- is they just don't have meaningful time,  
14 because I don't think one day of cajoling is going to be  
15 enough to get -- you know, you're a billion dollars apart on  
16 UBS, right? The Debtor, I guess, thinks zero is the amount of  
17 their claim, and UBS thinks it's a billion, and it's been  
18 litigated for 11 years. And then I personally know, you know,  
19 how Acis feels about its positions.

20 So, anyway, what I'm getting at is structure. I in some  
21 ways think what we need here is sort of a master statesman-  
22 type person who would spend meaningful time, not just a day or  
23 two, but days or even weeks trying to reach a grand  
24 compromise.

25 On the other hand, in my experience -- I've never done

1 that in a case as judge. But as a lawyer, I felt like that  
2 kind of person can hijack a case, and we don't need that here.  
3 We have wonderful professionals, a wonderful Board, a  
4 wonderful CEO. We don't need that kind of help, I worry.

5 So, I guess where I'm evolving, you know, we've got the  
6 two-sitting-judge option that would be free mediators that  
7 could give you a day or two. Maybe. And then we have kind of  
8 the master statesman who might be in there for weeks, trying  
9 to help you reach a grand compromise.

10 Another option, I think, is one or two mediators who just  
11 zero in, you know, on the UBS claim versus -- and the Acis  
12 claim. And I have a couple of private mediators in mind that  
13 have very good video capabilities to have a sophisticated  
14 video mediation.

15 So, all of this rambling to say, Do you think we need to  
16 just zero in on Acis and UBS and maybe have one or two people  
17 to do formal video mediation with those two parties, or do we  
18 need sort of more of a grand pooh-bah, grand compromise-type  
19 person?

20 MR. SEERY: My view, Your Honor, is that we should  
21 focus on the claims, but they're not just going to be two-  
22 party, because we do have other active constituents. I think  
23 Redeemer, with their party in interest status, is going to  
24 want to be part of it.

25 I think if we can focus on those, we have the

1 professionals to help drive the grander bargain that I've  
2 alluded to in some of those discussions we've been having. So  
3 they haven't progressed as far as I would like, but they have  
4 progressed. We do need the bottom line number for where  
5 claims are going to come out. But also that will help frame a  
6 little bit as to what parties expect in terms of distributions  
7 on their claims.

8 And I think the reason that we had some impetus behind a  
9 sitting judge -- frankly, I didn't know that sitting judges  
10 couldn't be paid. I think that's -- there should be a  
11 standard rate, because we shouldn't take people's time for  
12 free in these cases, and I know judges work extremely hard and  
13 if they're going to put in extra time, then they should maybe  
14 be compensated, but that's a whole different issue.

15 I don't think we should get too hung up on the cost. We  
16 are -- the costs of this case are extremely high, and we are,  
17 with best intents, sometimes getting ourselves wrapped up in  
18 things that should be, I think, more swiftly and economically  
19 dealt with and dispatched.

20 So, if we can get a good mediator, and I think the reason  
21 folks think about a judge is -- a sitting judge, it's not just  
22 the vast experience that folks -- judges like yourself have,  
23 Your Honor, and in particular with these issues, but also the  
24 requirement that all the participants, notwithstanding the  
25 professionals and -- that you see here, the requirement that

1 all the participants know that they're dealing with a sitting  
2 judge, there's a certain decorum that's required. But that, I  
3 think we get anyway. But there's also a -- there's less  
4 willingness to go to the furthest reaches of your argument  
5 when you have someone who's on the bench who sees those types  
6 of positions taken frequently and can dispatch with them more  
7 readily.

8 So, I think there are a number of individuals that I've  
9 dealt with in the past who would have the ability, the  
10 gravitas, for lack of a better term, to be able to help push  
11 the parties in the right direction. And I think it's a matter  
12 of finding somebody, as you said, with both the capabilities,  
13 which we'll find, but also the capacity in terms of the time  
14 to do it. And then, in the video age, maybe some facility in  
15 being able to make that happen both rapidly and effectively on  
16 screen.

17 THE COURT: Okay.

18 MR. POMERANTZ: Your Honor, this is Jeff Pomerantz.  
19 And I'd just make a couple of comments.

20 THE COURT: Okay.

21 MR. POMERANTZ: You know, as Mr. Seery said, we were  
22 predisposed towards a sitting judge. And while we did share  
23 the same concerns about the timing of Judge Jones and Isgur,  
24 we understand you've probably been in communication with them,  
25 and if that's not going to work, we appreciate it. We want



1 this mediation to be effective and we want someone to spend  
2 the time with it. And if you didn't feel that they, you know,  
3 could commit to that, we totally appreciate that.

4 We thought long and hard about the people that you  
5 identified at the last hearing, former Judge Peck and Sylvia  
6 Mayer. We've done our diligence. The Debtor would be willing  
7 to mediate before Sylvia Mayer. We think that, based upon our  
8 diligence, the people we've spoken to, that she, if she  
9 otherwise had the time and the abil... the time to devote to  
10 it, that being a former big-firm lawyer in permanent practice  
11 now as a mediator, that the Debtor would find her acceptable.

12 THE COURT: All right. Does anyone else wish to  
13 comment? Because I have a very positive view of Sylvia Mayer,  
14 and certainly her video capabilities, I think, are far and  
15 away better than a few other people I've chatted with.

16 MS. PATEL: Your Honor?

17 MR. CLEMENTS: Your Honor? Oh, I'm sorry.

18 MS. PATEL: Go ahead.

19 MR. CLEMENTE: Your Honor, --

20 THE COURT: Not that I would ever, you know, put that  
21 ahead of, you know, overall abilities, but it just is an added  
22 plus, a huge plus right now during COVID.

23 Go ahead.

24 MR. CLEMENTE: Your Honor, Matt Clemente on behalf of  
25 the Committee. Just a couple observations, building a little

1 bit on what Mr. Seery said.

2 We had consensus among the Committee around Judge Isgur  
3 and Judge Jones. I think the view, the consensus view -- and,  
4 again, I use the word consensus and not unanimity because I  
5 want Your Honor to understand that -- is that having a sitting  
6 judge, ideally, given the personalities as you've expressed  
7 and I think as Mr. Seery has expressed, provides the best  
8 possibility for a successful mediation. It may not be that  
9 overlord that spends three weeks, but, you know, it is a  
10 strong personality that -- not that any of the names that have  
11 been raised aren't tremendously to be respected, but that  
12 would be respected by all of the parties simply by the fact  
13 that they're a sitting judge.

14 With that said, Your Honor, and, again, the speed. Again,  
15 I don't have unanimity from the Committee, but there is  
16 consensus to see if Sitting Judge Green from the Southern  
17 District of New York would have the time and the capability to  
18 spend. And I know Your Honor has concerns about the time. I  
19 think Judge Isgur and Judge Jones occupy a special place in  
20 terms of how busy they are, but at least among the Committee  
21 members, there's been discussion that that may be a suitable  
22 approach in terms of identifying a mediator and accomplishing  
23 the objectives of having a very strong mediation, mediator, on  
24 a timely basis, that has the best possibility of success.

25 That being said, Your Honor, based on what Mr. Pomerantz

1 said, if Mr. Green is not acceptable or if Your Honor doesn't  
2 wish for us to go in that direction, I do have consensus among  
3 the Committee members to move forward with Ms. Mayer as  
4 mediator.

5 So, a little -- maybe a little convoluted in my comments  
6 there, Your Honor, but the main thrust is I think there is  
7 consensus among the Committee to consider a sitting judge, and  
8 Judge Green would be someone who would be satisfactory. And  
9 if he's not acceptable, or I should say acceptable but not  
10 able to do it, Ms. Mayer would be acceptable to the Committee.

11 THE COURT: All right. Well, let me put this out  
12 there. I talked on a no-names basis with Ms. Mayer last  
13 Friday. And it was actually more in the nature of making  
14 inquiries about how an organization she's connected with, the  
15 AAA -- you've heard of the American Arbitration Association;  
16 they, of course, do mediation -- what their experience and  
17 capabilities were with many, many parties and video mediation.  
18 And as you might guess, they have a lot of experience already  
19 -- you know, a number well in excess of a hundred; I can't  
20 remember -- of doing video mediations with many parties and  
21 having the different constituencies in this caucus room and  
22 that caucus room. And, very importantly, having lots of IT  
23 staff to give instructions, to give help, to, you know, tackle  
24 technology problems.

25 But in that discussion, I learned that there is a panel

1 that AAA has put together of 12 mediators that have bankruptcy  
2 expertise. And, of course, Sylvia Mayer is one of those  
3 people. But Retired Bankruptcy Judge Gropper -- is it Groper  
4 or Gropper from the Southern District of New York? I always  
5 forget which way he pronounces his name. Anyway, he is on  
6 that. He is on that panel of 12.

7 Mr. Seery, you're grinning like you want to say something  
8 about this.

9 MR. SEERY: No. Only on the Gropper/Groper, because  
10 there's a professional that I know that is similarly named,  
11 and I believe -- and I believe Judge Groper -- I may have it  
12 wrong, but I think it's -- it's Judge Groper and Dan Gropper.  
13 But that's the best I --

14 MR. NEIER: It's Dan Groper and Judge Gropper. I  
15 actually had a mediation with the two of them when they argued  
16 about the pronunciation of their name.

17 THE COURT: Okay. Well, Gropper. So we -- it's  
18 Gropper. Okay.

19 A VOICE: Yes.

20 THE COURT: My point was, without -- I've not talked  
21 to him at all. And by the way, I haven't personally reached  
22 out to Jim Peck, but we'll stop that discussion about him.  
23 But after getting off the call with Sylvia Mayer and a couple  
24 of other people at the AAA Friday, I put together in my brain,  
25 maybe we could have a Sylvia Mayer/Allan Gropper tag team, two

1 mediators. Okay? I don't know how that would affect the  
2 cost, but that might be the way to go in such a complex case.  
3 You know, maybe they could divvy up among themselves. One  
4 would be the primary mediator on Acis, one would be the  
5 primary mediator on UBS, but they would both work together.

6 If you all want to think on that, digest that a little,  
7 and we, you know, decide definitely next week on the 21st, we  
8 could do that. Or we could just all say, yeah, that's a good  
9 game plan, and I can get on the phone after this. Or it  
10 actually may be tomorrow, because I have a terrible hearing  
11 that I've got to prepare for at 9:30 in the morning tomorrow.  
12 It may be tomorrow.

13 But do people want to let that soak in a little bit, or  
14 shall -- I mean, --

15 MR. POMERANTZ: Your Honor, this is Jeff Pomerantz.

16 THE COURT: -- frankly, I can order it either way. I  
17 can order it. But I just really want to be conciliatory to  
18 the parties who are owed the money and have to pay the money,  
19 if you want to think on it some.

20 MR. POMERANTZ: Your Honor, it's Jeff Pomerantz.  
21 Having my newly-minted CEO on the phone, Mr. Seery, I would  
22 ask him, and if he says that it would be okay, then it would  
23 be okay with me.

24 MR. SEERY: Be fine with me.

25 THE COURT: Okay.

1 MR. SEERY: Yeah, I think the key is moving forward.  
2 I know it's much harder with a Committee, and I respect, you  
3 know, Matt Clemente's job there of having to get consensus.  
4 But from our perspective, if we were to push it off, you know,  
5 on the 21st, Your Honor, we -- we would request you to order  
6 something, because I don't want this to delay.

7 THE COURT: Okay.

8 MR. CLUBOK: Your Honor, if I may, speaking for UBS,  
9 it's Andrew Clubok. You'll be happy to know I think that  
10 we're in agreement with Mr. Seery, and I guess, derivatively,  
11 Mr. Pomerantz. We think the most important thing is to move  
12 it along quickly, and we trust -- you know, we're familiar  
13 with Judge -- or, with Mayer, and whether it's Groper or  
14 Gropper, I lost track, but I'm sure he is also going to be  
15 equally capable. We do kind of think that two is probably  
16 necessary, given, you know, the sort of multi-layer  
17 (inaudible).

18 But, really, our position has simply been we'll happily  
19 mediate with any, you know, effective mediator as quickly as  
20 possible, because we do think the sooner we do that, the  
21 sooner we might have a chance to get to yes. So, I'm -- we're  
22 prepared to just say yes to the idea.

23 THE COURT: All right. Does anyone else want to  
24 comment?

25 MS. PATEL: Your Honor? And can you hear me? I'm



1 sorry. It's --

2 THE COURT: Yes.

3 MS. PATEL: Again, I'm still having WebEx problems.

4 THE COURT: Yes.

5 MS. PATEL: Your Honor, again, for the record, Rakhee  
6 Patel.

7 Acis is fine with the proposal, Your Honor. We've been  
8 amenable to virtually every proposal, and have been trying to  
9 hopefully be helpful with respect to getting this moved to  
10 mediation as quickly as possible. We equally think that we  
11 should get to mediation as quickly as we can.

12 And, you know, the only -- the only -- and I appreciate  
13 Your Honor's contemplativeness on this. As you know, at least  
14 in connection with the Acis case, you know, we've been through  
15 two unsuccessful mediations so far. So we're really hoping  
16 that the third time will go much better than the prior two.

17 So, anyway, this is my very long way of saying we're fine  
18 with the proposal and are happy to kind of sign off on it. We  
19 don't need until July 21st to respond on that.

20 THE COURT: Okay. Anyone else?

21 (No response.)

22 THE COURT: All right. Well, very good. I'm going  
23 to move ahead on this and will confirm to you, hopefully  
24 before the 21st, through my courtroom deputy. And, again,  
25 given the late hour, I think it's going to be tomorrow before

1 I pick up the phone and reach out to Sylvia Mayer and former  
2 Judge Gropper.

3 But, again, I did, in speaking generically with Sylvia  
4 Mayer, asking her, Have you ever done like a two-mediator  
5 mega-mediation, and she said, Oh, sure. You know, that's --  
6 she acted like it was quite common. It's not something that I  
7 have seen very often, but I think we'll be in business with  
8 this game plan.

9 Because, you know, I know everyone on this call knows  
10 this, but maybe not everyone's client knows this: If we don't  
11 -- if we don't have a successful mediation of both of these  
12 claims, or at least one of these claims, it's going to be  
13 years and years and years. I mean, I know it's already been  
14 years for UBS, but it will -- it will be many, many more  
15 years. And that's not what we're supposed to do in  
16 bankruptcy. We're supposed to stop burdensome litigation and  
17 solve problems. And I can't imagine your clients want to go  
18 on with three or four more years of litigation. But that's  
19 exactly what it will be, it's exactly what it will be, many  
20 more years of litigation, if we don't have mediated  
21 settlements.

22 So, all right.

23 MS. PATEL: Your Honor, if I may very quickly. I  
24 just wanted to make sure the Court was aware of something. In  
25 the context of mediation and as it relates to Acis's claim,

1 yesterday counsel for Mr. Dondero filed a joinder in the  
2 Debtors' objection to Acis's claim. So, again, just thinking  
3 about this in the context of mediation, I think, with that  
4 joinder, they will be a necessary party. So, going back to  
5 Mr. Seery's point, this is not just --

6 THE COURT: Oh, absolutely. Mr. Dondero is --

7 MS. PATEL: -- a two-party --

8 THE COURT: -- going to be a required party in  
9 mediation. Absolutely. So, --

10 MS. PATEL: Thank you, Your Honor.

11 THE COURT: All right. Well, if there's nothing  
12 further, we'll see you on the 21st. And, again, my courtroom  
13 deputy may be reaching out before then if we've got things  
14 nailed down on mediation.

15 (Proceedings concluded at 4:54 p.m.)

16 --oOo--

17

18

19

20

CERTIFICATE

21

22 I certify that the foregoing is a correct transcript to  
23 the best of my ability from the electronic sound recording of  
the proceedings in the above-entitled matter.

23

24 **/s/ Kathy Rehling**

**07/16/2020**

24

25

\_\_\_\_\_  
Kathy Rehling, CETD-444  
Certified Electronic Court Transcriber

\_\_\_\_\_  
Date

002307

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

---

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

---

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER APPROVING  
SETTLEMENT WITH HARBOURVEST (CLAIM NOS. 143, 147, 149, 150, 153, 154)  
AND AUTHORIZING ACTIONS CONSISTENT THEREWITH**

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

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

Highland Capital Management, L.P., the above-captioned debtor and debtor-in-possession (“Highland” or the “Debtor”), files this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A**, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving a settlement agreement (the “Settlement Agreement”),<sup>2</sup> a copy of which is attached as Exhibit 1 to the *Declaration of John A. Morris in Support of the Debtor’s Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith* being filed simultaneously with this Motion (“Morris Dec.”), that, among other things, fully and finally resolves the proofs of claim filed by HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P. (collectively, “HarbourVest”). In support of this Motion, the Debtor represents as follows:

### **JURISDICTION**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are sections 105(a) and 363 of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 9019 of the Bankruptcy Rules.

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<sup>2</sup> All capitalized terms used but not defined herein shall have the meanings given to them in the Settlement Agreement.



## RELEVANT BACKGROUND

### A. Procedural Background

3. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”).

4. On October 29, 2019, the official committee of unsecured creditors (the “Committee”) was appointed by the U.S. Trustee in the Delaware Court.

5. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor’s case to this Court [Docket No. 186].<sup>3</sup>

6. On December 27, 2019, the Debtor filed that certain *Motion of the Debtor for Approval of Settlement with the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”). This Court approved the Settlement Motion on January 9, 2020 [Docket No. 339] (the “Settlement Order”).

7. In connection with the Settlement Order, an independent board of directors was constituted at the Debtor’s general partner, Strand Advisors, Inc., and certain operating protocols were instituted.

8. On July 16, 2020, this Court entered an order appointing James P. Seery, Jr., as the Debtor’s chief executive officer and chief restructuring officer [Docket No. 854].

9. The Debtor has continued in the possession of its property and has continued to operate and manage its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this chapter 11 case.

---

<sup>3</sup> All docket numbers refer to the docket maintained by this Court.

**B. Overview of HarbourVest's Claims**

10. HarbourVest's claims against the Debtor's estate arise from its \$80 million investment in Highland CLO Funding, f/k/a Acis Loan Funding, Ltd. ("HCLOF"), pursuant to which HarbourVest obtained a 49 percent interest in HCLOF (the "Investment").

11. In brief, HarbourVest contends that it was fraudulently induced into entering into the Investment based on the Debtor's misrepresentations and omissions concerning certain material facts, including that the Debtor: (1) failed to disclose that it never intended to pay an arbitration award obtained by a former portfolio manager, (2) failed to disclose that it engaged in a series of fraudulent transfers for the purpose of preventing the former portfolio manager from collecting on his arbitration award and misrepresented the reasons changing the portfolio manager for HCLOF immediately prior to the Investment, (3) indicated that the dispute with the former portfolio manager would not impact investment activities, and (4) expressed confidence in the ability of HCLOF to reset or redeem the collateralized loan obligations ("CLOs") under its control.

12. HarbourVest seeks to rescind its Investment and claims damages in excess of \$300 million based on theories of fraud, fraudulent inducement, fraudulent concealment, fraudulent misrepresentation, negligent misrepresentation, and breach of fiduciary duty (under Guernsey law), and on alleged violations of state securities laws and the Racketeer Influenced Corrupt Organization Act ("RICO").

13. HarbourVest's allegations are summarized below.<sup>4</sup>

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<sup>4</sup> Solely for purposes of this Motion, and not for any other reason, the facts set forth herein are adopted largely from the *HarbourVest Response to Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims* [Docket No. 1057] (the "Response").

**C. Summary of HarbourVest’s Factual Allegations**

14. At the time HarbourVest made its Investment, the Debtor was embroiled in an arbitration against Joshua Terry (“Mr. Terry”), a former employee of the Debtor and limited partner of Acis Capital Management, L.P. (“Acis LP”). Through Acis LP, Mr. Terry managed Highland’s CLO business, including CLO-related investments held by Acis Loan Funding, Ltd. (“Acis Funding”).

15. The litigation between Mr. Terry and the Debtor began in 2016, after the Debtor terminated Mr. Terry and commenced an action against him in Texas state court. Mr. Terry asserted counterclaims for wrongful termination and for the wrongful taking of his ownership interest in Acis LP and subsequently had certain claims referred to arbitration where he obtained an award of approximately \$8 million (the “Arbitration Award”) on October 20, 2017.

16. HarbourVest alleges that the Debtor responded to the Arbitration Award by engaging in a series of fraudulent transfers and corporate restructurings, the true purposes of which were fraudulently concealed from HarbourVest.

17. For example, according to HarbourVest, the Debtor changed the name of the target fund from Acis Funding to “Highland CLO Funding, Ltd.” (“HCLOF”) and “swapped out” Acis LP for Highland HCF Advisor, Ltd. as portfolio manager (the “Structural Changes”). The Debtor allegedly told HarbourVest that it made these changes because of the “reputational harm” to Acis LP resulting from the Arbitration Award. The Debtor further told HarbourVest that in lieu of redemptions, resetting the CLOs was necessary, and that it would be easier to reset them under the “Highland” CLO brand instead of the Acis CLO brand.

18. In addition, HarbourVest also alleges that the Debtor had no intention of allowing Mr. Terry to collect on his Arbitration Award, and orchestrated a scheme to “denude”

Acis of assets by fraudulently transferring virtually all of its assets and attempting to transfer its profitable portfolio management contracts to non-Acis, Debtor-related entities.

19. Unaware of the fraudulent transfers or the true purposes of the Structural Changes, and in reliance on representations made by the Debtor, HarbourVest closed on its Investment in HCLOF on November 15, 2017.

20. After discovering the transfers that occurred between Highland and Acis between October and December 2017 following the Arbitration Award (the “Transfers”), on January 24, 2018, Terry moved for a temporary restraining order (the “TRO”) from the Texas state court on the grounds that the Transfers were pursued for the purpose of rendering Acis LP judgment-proof. The state court granted the TRO, enjoining the Debtor from transferring any CLO management contracts or other assets away from Acis LP.

21. On January 30, 2018, Mr. Terry filed involuntary bankruptcy petitions against Acis LP and its general partner, Acis Capital Management GP, LLC. *See In re Acis Capital Management, L.P.*, Case No. 18-30264-sgj11 (Bankr. N.D. Tex. 2018) and *In re Acis Capital Management GP, LLC*, Case No. 18-30265-sgj11 (Bankr. N.D. Tex. 2018) (collectively, the “Acis Bankruptcy Case”). The Bankruptcy Court overruled the Debtor’s objection, granted the involuntary petitions, and appointed a chapter 11 trustee (the “Acis Trustee”). A long sequence of events subsequently transpired, all of which relate to HarbourVest’s claims, including:

- On May 31, 2018, the Court issued a *sua sponte* TRO preventing any actions in furtherance of the optional redemptions or other liquidation of the Acis CLOs.
- On June 14, 2018, HCLOF withdrew optional redemption notices.
- The TRO expired on June 15, 2018, and HCLOF noticed the Acis Trustee that it was requesting an optional redemption.

- HCLOF's request was withdrawn on July 6, 2018, and on June 21, 2018, the Acis Trustee sought an injunction preventing Highland/HCLOF from seeking further redemptions (the "Preliminary Injunction").
- The Court granted the Preliminary Injunction on July 10, 2018, pending the Acis Trustee's attempts to confirm a plan or resolve the Acis Bankruptcy.
- On August 30, 2018, the Court denied confirmation of the First Amended Joint Plan for Acis, and held that the Preliminary Injunction must stay in place on the ground that the "evidence thus far has been compelling that numerous transfers after the Josh Terry judgment denuded Acis of value."
- After the Debtor made various statements implicating HarbourVest in the Transfers, the Acis Trustee investigated HarbourVest's involvement in such Transfers, including extensive discovery and taking a 30(b)(6) deposition of HarbourVest's managing director, Michael Pugatch, on November 17, 2018.
- On March 20, 2019, HCLOF sent a letter to Acis LP stating that it was not interested in pursuing, or able to pursue, a CLO reset transaction.

**D. The Parties' Pleadings and Positions Concerning HarbourVest's Proofs of Claim**

22. On April 8, 2020, HarbourVest filed proofs of claim against Highland that were subsequently denoted by the Debtor's claims agents as claim numbers 143, 147, 149, 150, 153, and 154, respectively (collectively, the "Proofs of Claim"). Morris Dec. Exhibits 2-7.

23. The Proofs of Claim assert, among other things, that HarbourVest suffered significant harm due to conduct undertaken by the Debtor and the Debtor's employees, including "financial harm resulting from (i) court orders in the Acis Bankruptcy that prevented certain CLOs in which HCLOF was invested from being refinanced or reset and court orders that otherwise relegated the activity of HCLOF [*i.e.*, the Preliminary Injunction]; and (ii) significant fees and expenses related to the Acis Bankruptcy that were charged to HCLOF." *See, e.g.*, Morris Dec. Exhibit 2 ¶3.

24. HarbourVest also asserted "any and all of its right to payment, remedies, and other claims (including contingent or unliquidated claims) against the Debtor in connection with and relating to the forgoing harm, including for any amounts due or owed under the various

agreements with the Debtor in connection with relating to” the Operative Documents “and any and all legal and equitable claims or causes of action relating to the forgoing harm.” *See, e.g.*, Morris Dec. Exhibit 2 ¶4.

25. Highland subsequently objected to HarbourVest’s Proofs of Claim on the grounds that they were no-liability claims. [Docket No. 906] (the “Claim Objection”).

26. On September 11, 2020, HarbourVest filed its Response. The Response articulated specified claims under U.S. federal and state and Guernsey law, including claims for fraud, fraudulent concealment, fraudulent inducement, fraudulent misrepresentation, negligent misrepresentation (collectively, the “Fraud Claims”), U.S. State and Federal Securities Law Claims (the “Securities Claims”), violations of the Federal Racketeer Influenced and Corrupt Organizations Act (“RICO”), breach of fiduciary duty and misuse of fund assets, and an unfair prejudice claim under Guernsey law (collectively, with the Proofs of Claim, the “HarbourVest Claims”).

27. On October 18, 2020, HarbourVest filed its *Motion of HarbourVest Pursuant to Rule 3018 of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan* [Docket No. 1207] (the “3018 Motion”). In its 3018 Motion, HarbourVest sought for its Claims to be temporarily allowed for voting purposes in the amount of more than \$300 million (based largely on a theory of treble damages).

**E. Settlement Discussions**

28. In October, the parties discussed the possibility of resolving the Rule 3018 Motion.

29. In November, the parties broadened the discussions in an attempt to reach a global resolution of the HarbourVest Claims. In the pursuit thereof, the parties and their



counsel participated in several conference calls where they engaged in a spirited exchange of perspectives concerning the facts and the law.

30. During follow up meetings, the parties' interests became more defined. Specifically, HarbourVest sought to maximize its recovery while fully extracting itself from the Investment, while the Debtor sought to minimize the HarbourVest Claims consistent with its perceptions of the facts and law.

31. After the parties' interests became more defined, the principals engaged in a series of direct, arm's-length, telephonic negotiations that ultimately lead to the settlement, whose terms are summarized below.

**F. Summary of Settlement Terms**

32. The Settlement Agreement contains the following material terms, among others:

- HarbourVest shall transfer its entire interest in HCLOF to an entity to be designated by the Debtor;<sup>5</sup>
- HarbourVest shall receive an allowed, general unsecured, non-priority claim in the amount of \$45 million and shall vote its Class 8 claim in that amount to support the Plan;
- HarbourVest shall receive a subordinated, allowed, general unsecured, non-priority claim in the amount of \$35 million and shall vote its Class 9 claim in that amount to support the Plan;
- HarbourVest will support confirmation of the Debtor's Plan, including, but not limited to, voting its claims in support of the Plan;
- The HarbourVest Claims shall be allowed in the aggregate amount of \$45 million for voting purposes;
- HarbourVest will support the Debtor's pursuit of its pending Plan of Reorganization; and
- The parties shall exchange mutual releases.

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<sup>5</sup> The NAV for HarbourVest's 49.98% interest in HCLOF was estimated to be approximately \$22 million as of December 1, 2020.

See generally Morris Dec. Exhibit 1.

**BASIS FOR RELIEF REQUESTED**

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

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

FED. R. BANKR. P. 9019(a).

34. Settlements in bankruptcy are favored as a means of minimizing litigation, expediting the administration of the bankruptcy estate, and providing for the efficient resolution of bankruptcy cases. See *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980). Pursuant to Bankruptcy Rule 9019(a), a bankruptcy court may approve a compromise or settlement as long as the proposed settlement is fair, reasonable, and in the best interest of the estate. See *In re Age Ref. Inc.*, 801 F.3d 530, 540 (5th Cir. 2015). Ultimately, “approval of a compromise is within the sound discretion of the bankruptcy court.” See *United States v. AWECO, Inc. (In re AWECO, Inc.)*, 725 F.2d 293, 297 (5th Cir. 1984); *Jackson Brewing*, 624 F.2d at 602–03.

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

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

36. There is ample basis to approve the proposed Settlement Agreement based on the Rule 9019 factors set forth by the Fifth Circuit.

37. First, although the Debtor believes that it has valid defenses to the HarbourVest Claims, there is no guarantee that the Debtor would succeed in its litigation with HarbourVest. Indeed, to establish its defenses, the Debtor would be required to rely, at least in part, on the credibility of witnesses whose veracity has already been called into question by this Court. Moreover, it will be difficult to dispute that the Transfers precipitated the Acis Bankruptcy, and, ultimately, the imposition of the Bankruptcy Court’s TRO that restricted HCLOF’s ability to reset or redeem the CLOs and that is at the core of the HarbourVest Claims.

38. The second factor—the complexity, duration, and costs of litigation—also weighs heavily in favor of approving the Settlement Agreement. As this Court is aware, the events forming the basis of the HarbourVest Claims—including the Terry Litigation and Acis Bankruptcy—proceeded *for years* in this Court and in multiple other forums, and has already cost the Debtor’s estate millions of dollars in legal fees. If the Settlement Agreement is not approved, then the parties will expend significant resources litigating a host of fact-intensive

issues including, among other things, the substance and materiality of the Debtor's alleged fraudulent statements and omissions and whether HarbourVest reasonably relied on those statements and omissions.

39. Third, approval of the Settlement Agreement is justified by the paramount interest of creditors. Specifically, the settlement will enable the Debtor to: (a) avoid incurring substantial litigation costs; (b) avoid the litigation risk associated with HarbourVest's \$300 million claim; and (c) through the plan support provisions, increase the likelihood that the Debtor's pending plan of reorganization will be confirmed.

40. Finally, the Settlement Agreement was unquestionably negotiated at arm's-length. The terms of the settlement are the result of numerous, ongoing discussions and negotiations between the parties and their counsel and represent neither party's "best case scenario." Indeed, the Settlement Agreement should be approved as a rational exercise of the Debtor's business judgment made after due deliberation of the facts and circumstances concerning HarbourVest's Claims.

#### **NO PRIOR REQUEST**

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

#### **NOTICE**

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

WHEREFORE, the Debtor respectfully requests entry of an order, substantially in the form attached hereto as Exhibit A, (a) granting the relief requested herein, and (b) granting such other relief as is just and proper.

Dated: December 23, 2020.

**PACHULSKI STANG ZIEHL & JONES LLP**

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Ira D. Kharasch (CA Bar No. 109084)  
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-and-

**HAYWARD & ASSOCIATES PLLC**

/s/ Zachery Z. Annable

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*Counsel for the Debtor and Debtor-in-Possession*



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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed January 20, 2021

United States Bankruptcy Judge

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

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.

§  
§  
§  
§  
§  
§

Chapter 11

Case No. 19-34054-sgj11

**ORDER APPROVING DEBTOR'S SETTLEMENT  
WITH HARBOURVEST (CLAIM NOS. 143, 147, 149, 150, 153, 154) AND  
AUTHORIZING ACTIONS CONSISTENT THEREWITH**

This matter having come before the Court on *Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith* [Docket No. 1625] (the "Motion"),<sup>2</sup> filed by Highland Capital Management, L.P., the debtor and debtor-in-possession (the "Debtor") in the above-captioned chapter 11 case (the "Bankruptcy Case"); and this Court having considered (a) the

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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



Motion; (b) the *Declaration of John A. Morris in Support of the Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith* [Docket No. 1631] (the "Morris Declaration"), and the exhibits annexed thereto, including the Settlement Agreement attached as **Exhibit "1"** (the "Settlement Agreement"); (c) the arguments and law cited in the Motion; (d) *James Dondero's Objection to Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest* [Docket No. 1697] (the "Dondero Objection"), filed by James Dondero; (e) the *Objection to Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and Authorizing Actions Consistent Therewith* [Docket No. 1706] (the "Trusts' Objection"), filed by the Dugaboy Investment Trust ("Dugaboy") and Get Good Trust ("Get Good," and together with Dugaboy, the "Trusts"); (f) *CLO Holdco's Objection to HarbourVest Settlement* [Docket No. 1707] (the "CLOH Objection" and collectively, with the Dondero Objection and the Trusts' Objection, the "Objections"), filed by CLO Holdco, Ltd.; (g) the *Debtor's Omnibus Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154), and Authorizing Actions Consistent Therewith* [Docket No. 1731] (the "Debtor's Reply"), filed by the Debtor; (h) the *HarbourVest Reply in Support of Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest and Authorizing Actions Consistent Therewith* [Docket No. 1734] (the "HarbourVest Reply"), filed by HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P. (collectively, "HarbourVest"); (i) the testimonial and documentary evidence admitted into evidence during the hearing held on January 14, 2021 (the "Hearing"), including assessing the credibility of the witnesses; and (j) the

arguments made during the Hearing; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties-in-interest; and this Court having found the Settlement Agreement fair and equitable; and this Court having analyzed, for the reasons stated on the record, (1) the probability of success in litigating the claims subject to the Settlement Agreement, with due consideration for the uncertainty in fact and law, (2) the complexity and likely duration of litigation and any attendant expense, inconvenience, and delay, and (3) all other factors bearing on the wisdom of the compromise, including: (i) the best interests of the creditors, with proper deference to their reasonable views, and (ii) the extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED** that:

1. The Motion is **GRANTED** as set forth herein.
2. All objections to the Motion are overruled.
3. The Settlement Agreement, attached hereto as **Exhibit 1**, is approved in all respects pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure.

4. All objections to the proofs of claim subject to the Motion<sup>3</sup> are overruled as moot in light of the Court's approval of the Settlement Agreement.

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

6. Pursuant to the express terms of the *Members Agreement Relating to the Company*, dated November 15, 2017, HarbourVest is authorized to transfer its interests in HCLOF to a wholly-owned and controlled subsidiary of the Debtor pursuant to the terms of the *Transfer Agreement for Ordinary Shares of Highland CLO Funding, Ltd.* without the need to obtain the consent of any party or to offer such interests first to any other investor in HCLOF.

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

###End of Order###

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<sup>3</sup> This includes the *Debtor's First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims* [Docket No. 906].

# **EXHIBIT 1**

## SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into as of December 23, 2020, between Highland Capital Management, L.P. (the “Debtor”), on the one hand, and HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P. (each, a “HarbourVest Party,” and collectively, “HarbourVest”), on the other hand. Each of the foregoing are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

## RECITALS

**WHEREAS**, on October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Bankruptcy Case”) in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Bankruptcy Court”);

**WHEREAS**, on December 4, 2019, the Delaware Bankruptcy Court entered an order transferring venue of the Debtor’s case to the Bankruptcy Court for the Northern District of Texas, Dallas Division, Case No. 19-34054-sgj (the “Bankruptcy Court”);

**WHEREAS**, prior to the Petition Date, HarbourVest invested in Highland CLO Funding, Ltd. f/k/a Acis Loan Funding, Ltd. (“HCLOF”) and acquired an a 49.98% ownership interest in HCLOF (the “HarbourVest Interests”);

**WHEREAS**, the portfolio manager for HCLOF is Highland HCF Advisor, Ltd., a subsidiary of the Debtor;

**WHEREAS**, on April 8, 2020, HarbourVest filed proofs of claim in the Bankruptcy Case, which are listed on the Debtor’s claims register as claim numbers 143, 147, 149, 150, 153, and 154 (the “HarbourVest Claims”), asserting claims against the Debtor relating to its investment in HCLOF;

**WHEREAS**, on July 30, 2020, the Debtor filed the *Debtor’s First Omnibus Objection to Certain (a) Duplicate Claims; (b) Overstated Claims; (c) Late-Filed Claims; (d) Satisfied Claims; (e) No Liability Claims; and (f) Insufficient-Documentation Claims* [Docket No. 906], in which the Debtor objected to the HarbourVest Claims;

**WHEREAS**, on September 11, 2020, HarbourVest filed the *HarbourVest Response to Debtor’s First Omnibus Objection to Creation (a) Duplicate Claims; (b) Overstated Claims; (c) Late-Filed Claims; (d) Satisfied Claims; (e) No Liability Claims; and (f) Insufficient-Documentation Claims* [Docket No. 1057] (the “HarbourVest Response”);

**WHEREAS**, on October 18, 2020, HarbourVest filed the *Motion of HarbourVest Pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure for Temporary Allowance of Claims for Purposes of Voting to Accept or Reject the Plan* [Docket No. 1207] (the “3018 Motion”) and together with the HarbourVest Response, the “HarbourVest Pleadings”);

**WHEREAS**, in the HarbourVest Pleadings, HarbourVest asserted, among other things, that the HarbourVest Claims included claims against the Debtor arising from fraudulent inducement, fraudulent concealment, fraudulent misrepresentation, breach of fiduciary duty, breach of securities laws, and misuse of assets and sought damages in excess of \$300,000,000;

**WHEREAS**, the Debtor disputes the HarbourVest Claims;

**WHEREAS**, on November 24, 2020, the Debtor filed the *Fifth Amended Plan of Reorganization for Highland Capital Management, L.P.* [Docket No. 1472] (as amended, the “Plan”).<sup>1</sup>

**WHEREAS**, the Parties desire to enter into this Agreement which incorporates, formalizes, and finalizes the full and final resolution of the HarbourVest Claims and HarbourVest Pleadings; and

**WHEREAS**, this Agreement will be presented to the Bankruptcy Court for approval pursuant to Federal Rule of Bankruptcy Procedure 9019 (“Rule 9019”).

**NOW THEREFORE**, in consideration of the above recitals, the covenants, conditions, and promises made herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Settlement of Claims.**

(a) In full and complete satisfaction of the HarbourVest Claims, HarbourVest will receive:

(i) an allowed, nonpriority general unsecured claim in the aggregate amount of \$45,000,000 (the “Allowed GUC Claim”); and

(ii) an allowed subordinated claim in the aggregate amount of \$35,000,000 (the “Allowed Subordinated Claim” and together with the Allowed GUC Claim, the “Allowed Claims”).

(b) On the Effective Date, HarbourVest will transfer all of its rights, title, and interest in the HarbourVest Interests to the Debtor or its nominee pursuant to the terms of the *Transfer Agreement for Ordinary Shares of Highland CLO Funding, Ltd.*, attached hereto as Exhibit A (the “Transfer Agreements”) and the Debtor or its nominee will become a shareholder of HCLOF with respect to the HarbourVest Interests. The terms of the Transfer Agreements are incorporated into this Agreement by reference.

2. **Releases.**

(a) Upon the Effective Date, and to the maximum extent permitted by law, each HarbourVest Party on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents,

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<sup>1</sup> All capitalized terms used but not defined herein shall have the meanings given to them in the Plan.



participants, subsidiaries, parents, successors, designees, and assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, the Debtor, HCLOF, HCLOF's current and former directors, and the Debtor's current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns, except as expressly set forth below (the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "HarbourVest Released Claims").

(b) Upon the Effective Date, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue (i) each HarbourVest Party and (ii) each HarbourVest Party's current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, affiliates, successors, designees, and assigns (the "HarbourVest Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Debtor Released Claims"); *provided, however*, that notwithstanding anything herein to the contrary, the release contained in this Section 2(b) will apply to the HarbourVest Released Parties set forth in subsection (b)(ii) only with respect to Debtor Released Claims arising from or relating to HarbourVest's ownership of the HarbourVest Interests.

(c) Notwithstanding anything in this Agreement to the contrary, the releases set forth herein will not apply with respect to (i) the Allowed Claims, (ii) the claims of Charlotte Investor IV, L.P., or (iii) the duties, rights, or obligations of any Party under this Agreement or the Transfer Agreements.

3. **Agreement Subject to Bankruptcy Court Approval.** The effectiveness of this Agreement and the Parties' obligations hereunder are conditioned in all respects on the approval of this Agreement by the Bankruptcy Court. The Parties agree to cooperate and use reasonable efforts to have this Agreement approved by the Bankruptcy Court. The "Effective Date" will be the date of an order entered by the Bankruptcy Court approving this Agreement pursuant to a motion filed under Rule 9019.

4. **Representations and Warranties.** Subject in all respects to Section 3 hereof:

(a) each HarbourVest Party represents and warrants that (i) it has full authority to enter into this Agreement and to release the HarbourVest Released Claims and has not sold, transferred, or assigned any HarbourVest Released Claim to any other person or entity, (ii) no person or entity other than such HarbourVest Party has been, is, or will be authorized to bring, pursue, or enforce any HarbourVest Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) of such HarbourVest Party; and (iii) HarbourVest owns all of the HCLOF Interests free and clear of any claims or interests; and

(b) the Debtor represents and warrants to HarbourVest that (i) it has full authority to enter into this Agreement and to release the Debtor Released Claims and (ii) no person or entity other than the Debtor has been, is, or will be authorized to bring, pursue, or enforce any Debtor Released Claim on behalf of, for the benefit of, or in the name of (whether directly or derivatively) of the Debtor Party.

5. **Plan Support.**

(a) Each HarbourVest Party hereby agrees that it will (a) vote all HarbourVest Claims held by such HarbourVest Party to accept the Plan, by delivering its duly executed and completed ballots accepting the Plan on a timely basis; and (b) not (i) change, withdraw, or revoke such vote (or cause or direct such vote to be changed withdrawn or revoked); (ii) exercise any right or remedy for the enforcement, collection, or recovery of any claim against the Debtor except in a manner consistent with this Agreement or the Plan, (iii) object to, impede, or take any action other action to interfere with, delay or postpone acceptance or confirmation of the Plan; (iv) directly or indirectly solicit, propose, file, support, participate in the formulation of or vote for, any restructuring, sale of assets (including pursuant to 11 U.S.C. § 363), merger, workout, or plan of reorganization of the Debtor other than the Plan; or (v) otherwise take any action that would in any material respect interfere with, delay, or postpone the consummation of the Plan; provided, however, that such vote may be revoked (and, upon such revocation, deemed void ab initio) by such HarbourVest Party at any time following the termination of this agreement or the occurrence of a Support Termination Event (it being understood that any termination of this agreement shall entitle each HarbourVest Party to change its vote in accordance with section 1127(d) of the Bankruptcy Code), notwithstanding any voting deadline established by the Bankruptcy Court including without limitation the January 5, 2021, 5:00 p.m. (prevailing Central Time) deadline established by the *Order Approving Form of Ballots, Voting Deadline and Solicitation Procedures* [Docket No. 1476].

(b) In full resolution of the 3018 Motion, HarbourVest will have a general unsecured claim for voting purposes only in the amount of \$45,000,000.

(c) The obligations of the HarbourVest Parties under this Section 5 shall automatically terminate upon the occurrence of any of the following (each a "Support Termination Event"): (i) the effective date of the Plan, (ii) the withdrawal of the Plan, (iii) the entry of an order by the Bankruptcy Court (A) converting the Bankruptcy Case to a case under chapter 7 of the Bankruptcy Code or (B) appointing an examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code or a trustee in Bankruptcy

Case, or (iv) the failure of the Court to enter an order approving the terms of this Agreement and the settlement described herein pursuant to Rule 9019 prior to confirmation of the Plan.

6. **No Admission of Liability.** The Parties acknowledge that there is a bona fide dispute with respect to the HarbourVest Claims. Nothing in this Agreement will imply, an admission of liability, fault or wrongdoing by the Debtor, HarbourVest, or any other person, and the execution of this Agreement does not constitute an admission of liability, fault, or wrongdoing on the part of the Debtor, HarbourVest, or any other person.

7. **Successors-in-Interest.** This Agreement shall be binding upon and shall inure to the benefit of each of the Parties and their successors, and assigns.

8. **Notice.** Each notice and other communication hereunder will be in writing and will be sent by email and delivered or mailed by registered mail, receipt requested, and will be deemed to have been given on the date of its delivery, if delivered, and on the fifth full business day following the date of the mailing, if mailed to each of the Parties thereto at the following respective addresses or such other address as may be specified in any notice delivered or mailed as set forth below:

**HARBOURVEST**

HarbourVest Partners L.P.  
Attention: Michael J. Pugatch  
One Financial Center  
Boston, MA 02111  
Telephone No. 617-348-3712  
E-mail: mpugatch@harbourvest.com

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

Debevoise & Plimpton LLP  
Attention: M. Natasha Labovitz, Esq.  
919 Third Avenue  
New York, NY 10022  
Telephone No. 212-909-6649  
E-mail: nlabovitz@debevoise.com

**THE DEBTOR**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.  
Telephone No.: 972-628-4100  
Facsimile No.: 972-628-4147  
E-mail: jpseeryjr@gmail.com

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

Pachulski Stang Ziehl & Jones LLP  
Attention: Jeffrey Pomerantz, Esq.  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone No.: 310-277-6910  
Facsimile No.: 310-201-0760  
E-mail: jpomerantz@pszjlaw.com

9. **Advice of Counsel.** Each Party represents that it has: (a) been adequately represented by independent legal counsel of its own choice, throughout all of the negotiations that preceded the execution of this Agreement; (b) executed this Agreement upon the advice of such counsel; (c) read this Agreement, and understands and assents to all the terms and conditions contained herein without any reservations; and (d) had the opportunity to have this Agreement and all the terms and conditions contained herein explained by independent counsel, who has answered any and all questions asked of such counsel, or which could have been asked of such counsel, including, but not limited to, with regard to the meaning and effect of any of the provisions of this Agreement.

10. **Entire Agreement.** This Agreement and the Transfer Agreement contain the entire agreement and understanding concerning the subject matter of this Agreement, and supersede and replace all prior negotiations and agreements, written or oral and executed or unexecuted, concerning such subject matter. Each of the Parties acknowledges that no other Party, nor any agent of or attorney for any such Party, has made any promise, representation or warranty, express or implied, written or oral, not otherwise contained in this Agreement to induce any Party to execute this Agreement. The Parties further acknowledge that they are not executing this Agreement in reliance on any promise, representation or warranty not contained in this Agreement, and that any such reliance would be unreasonable. This Agreement will not be waived or modified except by an agreement in writing signed by each Party or duly authorized representative of each Party.

11. **No Party Deemed Drafter.** The Parties acknowledge that the terms of this Agreement are contractual and are the result of arms'-length negotiations between the Parties and their chosen counsel. Each Party and its counsel cooperated in the drafting and preparation of this Agreement. In any construction to be made of this Agreement, the Agreement will not be construed against any Party.

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

13. **Counterparts.** This Agreement may be executed in counterparts with the same force and effect as if executed in one complete document. Each Party's signature hereto will signify acceptance of, and agreement to, the terms and provisions contained in this Agreement. Photographic, electronic, and facsimile copies of signed counterparts may be used in lieu of the originals of this Agreement for any purpose.

14. **Governing Law; Venue; Attorneys' Fees and Costs.** The Parties agree that this Agreement will be governed by and will be construed according to the laws of the State of Texas without regard to conflict-of-law principles. Each of the Parties hereby submits to the exclusive jurisdiction of the Bankruptcy Court during the pendency of the Bankruptcy Case and thereafter to the exclusive jurisdiction of the state and federal courts located in the Northern District of Texas, Dallas Division, with respect to any disputes arising from or out of this Agreement. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable and necessary attorneys' fees and costs (including experts).

*[Remainder of Page Intentionally Blank]*

IT IS HEREBY AGREED.

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: /s/ James P. Seery, Jr.  
Name: James P. Seery, Jr.  
Its: CEO/CRO

**HarbourVest 2017 Global Fund L.P., by HarbourVest 2017 Global Associates L.P., its General Partner, by HarbourVest GP LLC, its General Partner, by HarbourVest Partners, LLC, its Managing Member**

By: /s/ Michael Pugatch  
Name: Michael Pugatch  
Its: Managing Director

**HarbourVest 2017 Global AIF L.P., by HarbourVest Partners (Ireland) Limited, its Alternative Investment Fund Manager, by HarbourVest Partners L.P., its Duly Appointed Investment Manager, by HarbourVest Partners, LLC, its General Partner**

By: /s/ Michael Pugatch  
Name: Michael Pugatch  
Its: Managing Director

**HarbourVest Dover Street IX Investment L.P., by HarbourVest Partners L.P., its Duly Appointed Investment Manager, by HarbourVest Partners, LLC, its General Partner**

By: /s/ Michael Pugatch  
Name: Michael Pugatch  
Its: Managing Director

**HarbourVest Partners L.P., on behalf of funds and accounts under management, by HarbourVest Partners, LLC, its General Partner**

By: /s/ Michael Pugatch  
Name: Michael Pugatch  
Its: Managing Director

**HarbourVest Skew Base AIF L.P., by HarbourVest Partners (Ireland) Limited, its  
Alternative Investment Fund Manager, by HarbourVest Partners L.P., its Duly Appointed  
Investment Manager, by HarbourVest Partners, LLC, its General Partner**

By: /s/ Michael Pugatch  
Name: Michael Pugatch  
Its: Managing Director

**HV International VIII Secondary L.P., by HIPEP VIII Associates L.P., its General  
Partner, by HarbourVest GP LLC, its General Partner, by HarbourVest Partners, LLC,  
its Managing Member**

By: /s/ Michael Pugatch  
Name: Michael Pugatch  
Its: Managing Director



# Exhibit A

**TRANSFER AGREEMENT  
FOR ORDINARY SHARES OF  
HIGHLAND CLO FUNDING, LTD.**

This Transfer Agreement, dated as of January \_\_\_\_, 2021 (this “**Transfer Agreement**”), is entered into by and among Highland CLO Funding, Ltd. (the “**Fund**”), Highland HCF Advisor, Ltd. (the “**Portfolio Manager**”), HCMLP Investments, LLC (the “**Transferee**”) and each of the following: HarbourVest Dover Street IX Investment L.P., HarbourVest 2017 Global AIF L.P., HarbourVest 2017 Global Fund L.P., HV International VIII Secondary L.P., and HarbourVest Skew Base AIF L.P. (collectively, the “**Transferors**”).

WHEREAS, each Transferor is the record, legal and beneficial owner of the number of ordinary shares (“**Shares**”) of the Fund set forth opposite such Transferor’s name on Exhibit A hereto (with respect to each Transferor, the “**Transferred Shares**”).

WHEREAS the Transferee is an affiliate and wholly owned subsidiary of Highland Capital Management, L.P. (“**HCMLP**”) which is one of the initial members of the Fund.

WHEREAS, each Transferor wishes to transfer and assign 100% of its rights, title and interest as a shareholder in the Fund, including the Transferred Shares (the “**Interest**”) on the terms set forth in this Transfer Agreement.

WHEREAS, subject to and in connection with the approval of that certain Settlement Agreement, dated on or about the date hereof, by and among HCMLP and the Transferors (the “**Settlement Agreement**”), the Transferee desires that the Interest be transferred to Transferee and that thereafter the Transferee will become a Shareholder and the Transferors will no longer be Shareholders.

WHEREAS, the Portfolio Manager desires to consent to such transfers and to the admission of Transferee as a Shareholder on the terms set forth herein, and the Transferors and Transferee agree to such terms.

WHEREAS, the Fund desires to amend its records to reflect the foregoing transfers.

NOW, THEREFORE, the parties hereto agree as follows:

1. Transfer of Shares and Advisory Board

- a. Each Transferor hereby transfers and assigns all of its rights, title, and interest in its Interest to the Transferee, and the Transferee wishes to be admitted to the Fund as a Shareholder.
- b. In connection with the transfer of the Interest as contemplated herein, the Transferee shall be granted the right to appoint a representative to the Fund’s advisory board (the “**Advisory Board**”) to replace the Transferors’ appointed representative to the Advisory Board.

- c. Transferee hereby assumes all of Transferor's rights and obligations in respect of the Interest effective as of the Effective Date (as defined below) and acknowledge that thereafter Transferee shall be subject to the applicable terms and provisions of the Members' Agreement dated as of November 15, 2017 (the "**Members' Agreement**"), the Articles of Incorporation adopted November 15, 2017 (the "**Articles**") and the Subscription and transfer Agreement, dated as of November 15, 2017 among each Transferor, the Fund and the Portfolio Manager (the "**Subscription Agreement**", and together with the Members' Agreement and the Articles, the "**Fund Agreements**") with respect to the Interest. Transferee does not assume any liability or responsibility for any obligations or liabilities incurred by any Transferor prior to the Effective Date of the transfer.
  - d. Following the transfer, each Transferor shall have no further rights or obligations to any party hereunder in respect of the Interest under the Fund Agreements.
  - e. This Transfer Agreement, and the parties' obligations hereunder, are conditioned in all respects on the approval by the Bankruptcy Court for the Northern District of Texas, Dallas Division pursuant to Federal Rule of Bankruptcy Procedure 9019 of (i) this Transfer Agreement and (ii) the Settlement Agreement, and each of the parties agree that no further action shall be required from any party for the transfer of the Interest to be effective except as described herein.
2. Transferee's Representations and Warranties. The Transferee represents and warrants to the Transferors, the Portfolio Manager, and the Fund as follows:
- a. This Transfer Agreement constitutes a valid and binding obligation of the Transferee, enforceable against it in accordance with its terms;
  - b. This Transfer Agreement has been duly and validly executed and delivered by or on behalf of the Transferee and such execution and delivery have been duly authorized by all necessary trust action of the Transferee;
  - c. The Transferee acknowledges receipt of, has read, and is familiar with, the Fund's Offering Memorandum for Placing Shares dated November 15, 2017 (the "**Offering Memorandum**") and the Fund Agreements;
  - d. The Transferee hereby accepts and receives the Interest from the Transferors for investment, and not with a view to the sale or distribution of any part thereof, and the Transferee has no present intention of selling, granting participations in, or otherwise distributing the same, but subject nevertheless to any requirement of law that the disposition of the Transferee's property shall at all times be within such Transferee's control; and
  - e. The Transferee is an "Eligible U.S. Investor" as defined in the Offering Memorandum.

3. Transferors' Representations and Warranties. Each Transferor represents and warrants to the Transferee, the Portfolio Manager, and the Fund as follows:
  - a. This Transfer Agreement constitutes a valid and binding obligation of the Transferor, enforceable against it in accordance with its terms;
  - b. This Transfer Agreement has been duly authorized, and duly and validly executed and delivered by the Transferor and such execution and delivery have been duly authorized by all necessary action of the Transferor; and
  - c. As of the date hereof, the Transferor has good and valid title to the Transferor's Interest, free and clear of any liens, vesting requirements or claims by others.
4. Consent to Transfer. Based in part on the representations and warranties of the Transferors and the Transferee which are included herein, and on the terms contained herein, the Portfolio Manager and the Fund hereby consent to the transfers of the Interest, the admission of the Transferee as a Shareholder and the Transferee's appointment of a representative to the Advisory Board, the Portfolio Manager's execution of this Transfer Agreement constituting its prior written consent to the transfers of the Interest for the purposes of article 18.1 of the Articles and this Transfer Agreement constituting express notice in writing to the Fund of the assignment set out at clause 1(c) above for the purposes of the Law of Property (Miscellaneous Provisions) (Guernsey) Law, 1979 (as amended).
5. Completion: As of the date of approval by the Bankruptcy Court for the Northern District of Texas, Dallas Division pursuant to Federal Rule of Bankruptcy Procedure 9019 of (i) this Transfer Agreement and (ii) the Settlement Agreement (the "**Effective Date**"):
  - a. each Transferor shall deliver or cause to be delivered to the Transferee a transfer instrument relating to the Transferred Shares duly executed and completed by that Transferor in favor of the Transferee; and
  - b. the Transferee shall deliver to the Transferors and the Fund a duly executed and dated Adherence Agreement (as defined in the Members' Agreement).

Prior to the Effective Date the Transferee shall procure that:

  - c. the board of directors of the Fund shall hold a meeting at which the transfer of the Shares to the Transferee shall be approved and registration in the register of members of the Fund shall be effected on the Effective Date.
6. Miscellaneous.
  - a. Each of the parties hereto agree to execute any further instruments and perform any further acts which are or may become reasonably necessary to carry out the intent of this Transfer Agreement or are reasonably requested by the Portfolio Manager, the Fund or a Transferor to complete the transfer of the Interest.

- b. The parties to this Transfer Agreement acknowledge that the terms of this Transfer Agreement are the result of arms'-length negotiations between the parties and their respective counsel. Each party and its counsel cooperated in the drafting and preparation of this Transfer Agreement. In any construction to be made of this Transfer Agreement, the language or drafting of this Transfer Agreement will not be construed against any party.
- c. This Transfer Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the state of Delaware, without giving effect to conflicts of law principles.
- d. The representations, warranties and covenants of the Transferors and the Transferee shall remain in full force and effect following the transfer of the Interest, and the Fund and the Portfolio Manager thereafter may rely on all such representations, warranties and covenants.
- e. This Transfer Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Photographic, electronic, and facsimile copies of signed counterparts may be used in lieu of the originals of this Transfer Agreement for any purpose.
- f. Captions of sections have been added only for convenience and shall not be deemed to be a part of this Transfer Agreement.
- g. This Transfer Agreement is among the parties hereto. No Person that is not a party hereto shall have any right herein as a third-party beneficiary or otherwise except as expressly contemplated hereby.

*[Remainder of Page Intentionally Blank]*

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

**TRANSFeree:**

**HCMLP Investments, LLC**

By: Highland Capital Management, L.P.

Its: Member

By: \_\_\_\_\_

Name: James P. Seery, Jr.

Title: Chief Executive Officer

**PORTFOLIO MANAGER:**

**Highland HCF Advisor, Ltd.**

By: \_\_\_\_\_

Name: James P. Seery, Jr.

Title: President

**FUND:**

**Highland CLO Funding, Ltd.**

By: \_\_\_\_\_

Name:

Title:

*[Additional Signatures on Following Page]*

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

**TRANSFERORS:**

**HarbourVest Dover Street IX Investment L.P.**

By: HarbourVest Partners L.P., its Duly Appointed Investment Manager

By: HarbourVest Partners, LLC

By: \_\_\_\_\_

Name: Michael Pugatch

Title: Managing Director

**HV International VIII Secondary L.P.**

By: HIPEP VIII Associates L.P.  
Its General Partner

By: HarbourVest GP LLC  
Its General Partner

By: HarbourVest Partners, LLC  
Its Managing Member

By: \_\_\_\_\_

Name: Michael Pugatch

Title: Managing Director

**HarbourVest 2017 Global AIF L.P.**

By: HarbourVest Partners (Ireland) Limited  
Its Alternative Investment Fund Manager

By: HarbourVest Partners L.P.  
Its Duly Appointed Investment Manager

By: HarbourVest Partners, LLC  
Its General Partner

By: \_\_\_\_\_

Name: Michael Pugatch

Title: Managing Director

**HarbourVest Skew Base AIF L.P.**

By: HarbourVest Partners (Ireland) Limited  
Its Alternative Investment Fund Manager

By: HarbourVest Partners L.P.  
Its Duly Appointed Investment Manager

By: HarbourVest Partners, LLC  
Its General Partner

By: \_\_\_\_\_

Name: Michael Pugatch

Title: Managing Director



**HarbourVest 2017 Global Fund L.P.**

By: HarbourVest 2017 Global Associates L.P.  
Its General Partner

By: HarbourVest GP LLC  
Its General Partner

By: HarbourVest Partners, LLC  
Its Managing Member

By: \_\_\_\_\_

Name: Michael Pugatch

Title: Managing Director

*[Signature Page to Transfer of Ordinary Shares of Highland CLO Funding, Ltd.]*

**Exhibit A**

<b><u>Transferee Name</u></b>	<b><u>Number of Shares</u></b>	<b><u>Percentage</u></b>
HarbourVest Dover Street IX Investment L.P.	54,355,482.14	71.0096%
HarbourVest 2017 Global AIF L.P.	7,426,940.38	9.7025%
HarbourVest 2017 Global Fund L.P.	3,713,508.46	4.8513%
HV International VIII Secondary L.P.	9,946,780.11	12.9944%
HarbourVest Skew Base AIF L.P.	1,103,956.03	1.4422%

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

---

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

---

**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

---

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No.143717)  
Ira D. Kharasch (CA Bar No. 109084)  
Gregory V. Demo (NY Bar No. 5371992)  
10100 Santa Monica Boulevard, 13th Floor  
Los Angeles, CA 90067  
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[ikharasch@pszjlaw.com](mailto:ikharasch@pszjlaw.com)  
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**HAYWARD & ASSOCIATES PLLC**

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Email: [MHayward@HaywardFirm.com](mailto:MHayward@HaywardFirm.com)  
[ZAnnable@HaywardFirm.com](mailto:ZAnnable@HaywardFirm.com)

Counsel for the Debtor and Debtor-in-Possession

---

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns;

(h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the

Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however*, Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold



Claimant Trust Interests unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or

Reorganized Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].

62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,

and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.



101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any



damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“Okada”), (c) Grant Scott (“Scott”), (d) Hunter Covitz (“Covitz”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “Reorganized

Debtor Assets” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to 11 U.S.C. § 510 or order entered by the Bankruptcy Court.

130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized

Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

## **B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee

Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, (b) payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF  
CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the



Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

## **H. Classification and Treatment of Claims and Equity Interests**

### *1. Class 1 – Jefferies Secured Claim*

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until full and final payment of such Allowed Class 1 Claim is made as provided herein.
- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

### *2. Class 2 – Frontier Secured Claim*

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.



3. Class 3 – Other Secured Claims

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.

- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.

9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

**I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

**J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Under section 510 of the Bankruptcy Code, upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF THIS PLAN**

**A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited partner, will ratify New GP LLC’s appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor’s limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor’s current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be

cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

*1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.*

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.



Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and



monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;
- (ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and
- (iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. *Compensation and Duties of Trustees.*

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust

Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are

investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

C. The Reorganized Debtor

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.



5. *Vesting of Assets in the Reorganized Debtor*

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. *Purpose of the Reorganized Debtor*

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. *Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets*

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement, the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in



the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.

#### **E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of

doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.

**ARTICLE V.**

**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a

contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4), as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

## **B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Effective Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed

and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.  
PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity



Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

## **B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the

Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as “Unclaimed Property” under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall



revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.

**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any

damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.**  
**PROCEDURES FOR RESOLVING CONTINGENT,**  
**UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.

**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH**

**LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding

upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

**B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee) and any applicable parties in Section VII.A of this Plan, without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

**C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's



Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross



negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation

Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

#### **E. Preservation of Rights of Action**

##### *1. Maintenance of Causes of Action*

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

##### *2. Preservation of All Causes of Action Not Expressly Settled or Released*

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final

Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or**

arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state,

Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or

expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such



orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;

- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

## **ARTICLE XII.** **MISCELLANEOUS PROVISIONS**

### **A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

### **B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

### **C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement



executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this

Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

#### **I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

#### **J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

#### **K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego

the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

*[Remainder of Page Intentionally Blank]*

Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: 

James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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*Counsel for the Debtor and Debtor-in-Possession*

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021**  
**APPELLANT RECORD**  
**VOLUME 11**

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*Counsel for The Charitable DAF Fund, L.P.  
and CLO Holdco, Ltd.*

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to



their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)	
Vol. 2	4	09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	5	10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000532	6	11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000537	7	11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
000558 Thru Vol. 8	8	11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)
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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)

6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

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Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) 2490 Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)



TRANSCRIPT

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78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

**SBAITI & COMPANY PLLC**

*/s/ Mazin A. Sbaiti*

**Mazin A. Sbaiti**

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**Counsel for Appellants**






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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

Signed February 22, 2021

  
United States Bankruptcy Judge

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

\_\_\_\_\_)  
In re: ) Chapter 11  
)  
HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup> ) Case No. 19-34054-sgj11  
)  
Debtor. )  
\_\_\_\_\_)

**ORDER (I) CONFIRMING THE FIFTH AMENDED  
PLAN OF REORGANIZATION OF HIGHLAND CAPITAL  
MANAGEMENT, L.P. (AS MODIFIED) AND (II) GRANTING RELATED RELIEF**

The Bankruptcy Court<sup>2</sup> having:

- a. entered, on November 24, 2020, the *Order (A) Approving the Adequacy of the Disclosure Statement, (B) Scheduling A Hearing to Confirm the Fifth Amended Plan of Reorganization (C) Establishing Deadline for Filing Objections to Confirmation of Plan, (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures, and (E) Approving Form and Manner of Notice* [Docket No. 1476] (the “Disclosure Statement Order”), pursuant to which the Bankruptcy Court approved the adequacy of the *Disclosure Statement Relating to the Fifth*

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Plan (as defined below). The rules of interpretation set forth in Article I of the Plan apply to this Confirmation Order.

*Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1473] (the “Disclosure Statement”) under section 1125 of the Bankruptcy Code and authorized solicitation of the Disclosure Statement;

- b. set January 5, 2021, at 5:00 p.m. prevailing Central Time (the “Objection Deadline”), as the deadline for filing objections to confirmation of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)* [Docket No. 1808] (as amended, supplemented or modified, the “Plan”);
- c. set January 5, 2021, at 5:00 p.m. prevailing Central Time, as the deadline for voting on the Plan (the “Voting Deadline”) in accordance with the Disclosure Statement Order;
- d. initially set January 13, 2021, at 9:30 a.m. prevailing Central Time, as the date and time to commence the hearing to consider confirmation of the Plan pursuant to Bankruptcy Rules 3017 and 3018, sections 1126, 1128, and 1129 of the Bankruptcy Code, and the Disclosure Statement Order, which hearing was continued to January 26, 2021, at 9:30 a.m. prevailing Central Time and further continued to February 2, 2021;
- e. reviewed: (i) the Plan; (ii) the Disclosure Statement; and (iii) *Notice of (I) Entry of Order Approving Disclosure Statement; (II) Hearing to Confirm; and (III) Related Important Dates* (the “Confirmation Hearing Notice”), the form of which is attached as Exhibit 1-B to the Disclosure Statement Order;
- f. reviewed: (i) the *Debtor’s Notice of Filing of Plan Supplement for the Third Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1389] filed November 13, 2020; (ii) *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1606] filed on December 18, 2020; (iii) the *Debtor’s Notice of Filing of Plan Supplement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1656] filed on January 4, 2021; (iv) *Notice of Filing Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (with Technical Modifications)* dated January 22, 2021 [Docket No. 1811]; and (v) *Debtor’s Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland of Highland Capital Management, L.P. (As Modified)* on February 1, 2021 [Docket No. 1875]; (collectively, the documents listed in (i) through (v) of this paragraph, the “Plan Supplements”);
- g. reviewed: (i) the *Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on December 30, 2020 [Docket No. 1648]; (ii) the *Second Notice of (I) Executory Contracts and*

*Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 11, 2021 [Docket No.1719]; (iii) the *Third Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan, (II) Cure Amounts, if Any, and (III) Related Procedures in Connection Therewith* filed on January 15, 2021 [Docket No. 1749]; (iv) the *Notice of Withdrawal of Certain Executory Contracts and Unexpired Leases from List of Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan* [Docket No. 1791]; (v) the *Fourth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on January 27, 2021 [Docket No. 1847]; (vi) the *Notice of Hearing on Agreed Motion to (I) Assume Nonresidential Real Property Lease with Crescent TC Investors, L.P. Upon Confirmation of Plan and (II) Extend Assumption Deadline* filed on January 28, 2021 [Docket No. 1857]; and (vii) the *Fifth Notice of (I) Executory Contracts and Unexpired Leases to be Assumed by the Debtor Pursuant to the Fifth Amended Plan (II) Cure Amounts, if Any, and (III) Released Procedures in Connection Therewith* filed on February 1, 2021 [Docket No. 1873] (collectively, the documents referred to in (i) to (vii) are referred to as “List of Assumed Contracts”);

- h. reviewed: (i) the *Debtor’s Memorandum of Law in Support of Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1814] (the “Confirmation Brief”); (ii) the *Debtor’s Omnibus Reply to Objections to Confirmation of the Fifth Amended Chapter 11 Plan of Reorganization of Highland Capital Management*; [Docket No. 1807]; and (iii) the *Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1772] and *Supplemental Certification of Patrick M. Leathem With Respect to the Tabulation of Votes on the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1887] filed on February 3, 2021 (together, the “Voting Certifications”).
- i. reviewed: (i) the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505]; (ii) the *Certificate of Service* dated December 23, 2020 [Docket No. 1630]; (iii) the *Supplemental Certificate of Service* dated December 24, 2020 [Docket No. 1637]; (iv) the *Second Supplemental Certificate of Service* dated December 31, 2020 [Docket No. 1653]; (v) the *Certificate of Service* dated December 23, 2020 [Docket No. 1627]; (vi) the *Certificate of Service* dated January 6, 2021 [Docket No. 1696]; (vii) the *Certificate of Service* dated January 7, 2021 [Docket No. 1699]; (viii) the *Certificate of Service* dated January 7, 2021 [Docket No 1700]; (ix) the *Certificate of Service* dated January 15, 2021 [Docket No. 1761]; (x) the *Certificate of Service* dated January 19, 2021 [Docket No. 1775]; (xi) the

*Certificate of Service* dated January 20, 2021 [Docket No. 1787]; (xii) the *Certificate of Service* dated January 26, 2021 [Docket No. 1844]; (xiii) the *Certificate of Service* dated January 27, 2021 [Docket No. 1854]; (xiv) the *Certificate of Service* dated February 1, 2021 [Docket No. 1879]; (xv) the *Certificates of Service* dated February 3, 2021 [Docket No. 1891 and 1893]; and (xvi) the *Certificates of Service* dated February 5, 2021 [Docket Nos. 1906, 1907, 1908 and 1909] (collectively, the “Affidavits of Service and Publication”);

- j. reviewed all filed<sup>3</sup> pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- k. conducted a hearing to consider confirmation of the Plan, which commenced on February 2, 2021, at 9:30 a.m. prevailing Central Time and concluded on February 3, 2021, and issued its oral ruling on February 8, 2021 (collectively, the “Confirmation Hearing”);
- l. heard the statements and arguments made by counsel in respect of confirmation of the Plan and having considered the record of this Chapter 11 Case and taken judicial notice of all papers and pleadings filed in this Chapter 11 Case; and
- m. considered all oral representations, testimony, documents, filings, and other evidence regarding confirmation of the Plan, including (a) all of the exhibits admitted into evidence;<sup>4</sup> (b) the sworn testimony of (i) James P. Seery, Jr., the Debtor’s Chief Executive Officer and Chief Restructuring Officer and a member of the Board of Directors of Strand Advisors, Inc. (“Strand”), the Debtor’s general partner; (ii) John S. Dubel, a member of the Board of Strand; (iii) Marc Tauber, a Vice President at Aon Financial Services; and (iv) Robert Jason Post, the Chief Compliance Officer of NexPoint Advisors, LP (collectively, the “Witnesses”); (c) the credibility of the Witnesses; and (d) the Voting Certifications.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact and conclusions of law:

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” herein refers also to the service of the applicable document filed on the docket in this Chapter 11 Case, as applicable.

<sup>4</sup> The Court admitted the following exhibits into evidence: (a) all of the Debtor’s exhibits lodged at Docket No. 1822 (except TTTTT, which was withdrawn by the Debtor); (b) all of the Debtor’s exhibits lodged at Docket No. 1866; (c) all of the Debtor’s exhibits lodged at Docket No. 1877; (d) all of the Debtor’s exhibits lodged at Docket No. 1895; and (e) Exhibits 6-12 and 15-17 offered by Mr. James Dondero and lodged at Docket No. 1874.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **Findings of Fact and Conclusions of Law.** The findings and conclusions set forth herein, together with the findings of fact and conclusions of law set forth in the record during the Confirmation Hearing, constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this proceeding pursuant to Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

2. **Introduction and Summary of the Plan.** Prior to addressing the specific requirements under the Bankruptcy Code and Bankruptcy Rules with respect to the confirmation of the Plan, the Bankruptcy Court believes it would be useful to first provide the following background of the Debtor's Chapter 11 Case, the parties involved therewith, and some of the major events that have transpired culminating in the filing and solicitation of the Plan of this very unusual case. Before the Bankruptcy Court is the *Debtor's Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, filed on November 24, 2020, as modified on January 22, 2021 and again on February 1, 2021. The parties have repeatedly referred to the Plan as an "asset monetization plan" because it involves the orderly wind-down of the Debtor's estate, including the sale of assets and certain of its funds over time, with the Reorganized Debtor continuing to manage certain other funds, subject to the oversight of the Claimant Trust Oversight Board. The Plan provides for a Claimant Trust to, among other things, manage and monetize the Claimant Trust Assets for the benefit of the Debtor's economic stakeholders. The Claimant Trustee is responsible

for this process, among other duties specified in the Plan's Claimant Trust Agreement. There is also anticipated to be a Litigation Sub-trust established for the purpose of pursuing certain avoidance or other causes of action for the benefit of the Debtor's economic constituents.

3. **Confirmation Requirements Satisfied.** The Plan is supported by the Committee and all claimants with Convenience Claims (*i.e.*, general unsecured claims under \$1 million) who voted in Class 7. Claimants with Class 8 General Unsecured Claims, however, voted to reject the Plan because, although the Plan was accepted by 99.8% of the amount of Claims in that class, only 17 claimants voted to accept the Plan while 27 claimants voted to reject the Plan. As a result of such votes, and because Mr. Dondero and the Dondero Related Entities (as defined below) objected to the Plan on a variety of grounds primarily relating to the Plan's release, exculpation and injunction provisions, the Bankruptcy Court heard two full days of evidence on February 2 and 3, 2021, and considered testimony from five witnesses and thousands of pages of documentary evidence in determining whether the Plan satisfies the confirmation standards required under the Bankruptcy Code. The Bankruptcy Court finds and concludes that the Plan meets all of the relevant requirements of sections 1123, 1124, and 1129, and other applicable provisions of the Bankruptcy Code, as more fully set forth below with respect to each of the applicable confirmation requirements.

4. **Not Your Garden Variety Debtor.** The Debtor's case is not a garden variety chapter 11 case. The Debtor is a multibillion-dollar global investment adviser registered with the SEC, pursuant to the Investment Advisers Act of 1940. It was founded in 1993 by James Dondero and Mark Okada. Mark Okada resigned from his role with Highland prior to the



bankruptcy case being filed on October 16, 2019 (the “Petition Date”). Mr. Dondero controlled the Debtor as of the Petition Date but agreed to relinquish control of it on or about January 9, 2020, pursuant to an agreement reached with the Committee, as described below. Although Mr. Dondero remained with the Debtor as an unpaid employee/portfolio manager after January 9, 2020, his employment with the Debtor terminated on October 9, 2020. Mr. Dondero continues to work for and/or control numerous non-debtor entities in the complex Highland enterprise.

5. **The Debtor.** The Debtor is headquartered in Dallas, Texas. As of the Petition Date, the Debtor employed approximately 76 employees. The Debtor is privately-owned: (a) 99.5% by the Hunter Mountain Investment Trust; (b) 0.1866% by The Dugaboy Investment Trust, a trust created to manage the assets of Mr. Dondero and his family; (c) 0.0627% by Mark Okada, personally and through family trusts; and (d) 0.25% by Strand, the Debtor’s general partner.

6. **The Highland Enterprise.** Pursuant to various contractual arrangements, the Debtor provides money management and advisory services for billions of dollars of assets, including collateralized loan obligation vehicles (“CLOs”), and other investments. Some of these assets are managed by the Debtor pursuant to shared services agreements with certain affiliated entities, including other affiliated registered investment advisors. In fact, there are approximately 2,000 entities in the byzantine complex of entities under the Highland umbrella. None of these affiliated entities filed for chapter 11 protection. Most, but not all, of these entities are not subsidiaries (direct or indirect) of the Debtor. Many of the Debtor’s affiliated companies are



offshore entities, organized in jurisdictions such as the Cayman Islands and Guernsey. *See* Disclosure Statement, at 17-18.

7. **Debtor's Operational History.** The Debtor's primary means of generating revenue has historically been from fees collected for the management and advisory services provided to funds that it manages, plus fees generated for services provided to its affiliates. For additional liquidity, the Debtor, prior to the Petition Date, would sell liquid securities in the ordinary course, primarily through a brokerage account at Jefferies, LLC. The Debtor would also, from time to time, sell assets at non-Debtor subsidiaries and cause those proceeds to be distributed to the Debtor in the ordinary course of business. The Debtor's current Chief Executive Officer, James P. Seery, Jr., credibly testified at the Confirmation Hearing that the Debtor was "run at a deficit for a long time and then would sell assets or defer employee compensation to cover its deficits." The Bankruptcy Court cannot help but wonder if that was necessitated because of enormous litigation fees and expenses incurred by the Debtor due to its culture of litigation—as further addressed below.

8. **Not Your Garden Variety Creditor's Committee.** The Debtor and this chapter 11 case are not garden variety for so many reasons. One of the most obvious standouts in this case is the creditor constituency. The Debtor did not file for bankruptcy because of any of the typical reasons that large companies file chapter 11. For example, the Debtor did not have a large, asset-based secured lender with whom it was in default; it only had relatively insignificant secured indebtedness owing to Jeffries, with whom it had a brokerage account, and one other entity, Frontier State Bank. The Debtor also did not have problems with its trade vendors or landlords.

The Debtor also did not suffer any type of catastrophic business calamity. In fact, the Debtor filed for Chapter 11 protection six months before the onset of the COVID-19 pandemic. Rather, the Debtor filed for Chapter 11 protection due to a myriad of massive, unrelated, business litigation claims that it faced—many of which had finally become liquidated (or were about to become liquidated) after a decade or more of contentious litigation in multiple forums all over the world. The Committee in this case has referred to the Debtor—under its former chief executive, Mr. Dondero—as a “serial litigator.” The Bankruptcy Court agrees with that description. By way of example, the members of the Committee (and their history of litigation with the Debtor and others in the Highland complex) are as follows:

- a. **The Redeemer Committee of the Highland Crusader Fund (the “Redeemer Committee”).** This Committee member obtained an arbitration award against the Debtor in the amount of \$190,824,557, inclusive of interest, approximately five months before the Petition Date, from a panel of the American Arbitration Association. It was on the verge of having that award confirmed by the Delaware Chancery Court immediately prior to the Petition Date, after years of disputes that started in late 2008 (and included legal proceedings in Bermuda). This creditor’s claim was settled during this Chapter 11 Case in the amount of approximately \$137,696,610 (subject to other adjustments and details not relevant for this purpose).
- b. **Acis Capital Management, L.P., and Acis Capital Management GP, LLC (“Acis”).** Acis was formerly in the Highland complex of companies, but was not affiliated with Highland as of the Petition Date. This Committee member and its now-owner, Joshua Terry, were involved in litigation with the Debtor dating back to 2016. Acis was forced by Mr. Terry (who was a former Highland portfolio manager) into an involuntary chapter 11 bankruptcy in the Bankruptcy Court for the Northern District of Texas, Dallas Division before the Bankruptcy Court in 2018, after Mr. Terry obtained an approximately \$8 million arbitration award and judgment against Acis. Mr. Terry ultimately was awarded the equity ownership of Acis by the Bankruptcy Court in the Acis bankruptcy case. Acis subsequently asserted a multi-million dollar claim against Highland in the Bankruptcy Court for Highland’s alleged denuding of Acis to defraud its creditors—primarily Mr. Terry. The litigation involving Acis and Mr. Terry dates back to mid-2016 and has

continued on with numerous appeals of Bankruptcy Court orders, including one appeal still pending at the Fifth Circuit Court of Appeals. There was also litigation involving Mr. Terry and Acis in the Royal Court of the Island of Guernsey and in a state court in New York. The Acis claim was settled during this Chapter 11 Case, in Bankruptcy Court-ordered mediation, for approximately \$23 million (subject to other details not relevant for this purpose), and is the subject of an appeal being pursued by Mr. Dondero.

- c. **UBS Securities LLC and UBS AG London Branch (“UBS”).** UBS is a Committee member that filed a proof of claim in the amount of \$1,039,957,799.40 in this Chapter 11 Case. The UBS Claim was based on a judgment that UBS received from a New York state court in 2020. The underlying decision was issued in November 2019, after a multi-week bench trial (which had occurred many months earlier) on a breach of contract claim against non-Debtor entities in the Highland complex. The UBS litigation related to activities that occurred in 2008 and 2009. The litigation involving UBS and Highland and affiliates was pending for more than a decade (there having been numerous interlocutory appeals during its history). The Debtor and UBS recently announced an agreement in principle for a settlement of the UBS claim (which came a few months after Bankruptcy Court-ordered mediation) which will be subject to a 9019 motion to be filed with the Bankruptcy Court on a future date.
- d. **Meta-E Discovery (“Meta-E”).** Meta-E is a Committee member that is a vendor who happened to supply litigation and discovery-related services to the Debtor over the years. It had unpaid invoices on the Petition Date of more than \$779,000.

It is fair to say that the members of the Committee in this case all have wills of steel. They fought hard before and during this Chapter 11 Case. The members of the Committee, all of whom have volunteered to serve on the Claimant Trust Oversight Board post-confirmation, are highly sophisticated and have had highly sophisticated professionals representing them. They have represented their constituency in this case as fiduciaries extremely well.

9. **Other Key Creditor Constituents.** In addition to the Committee members who were all embroiled in years of litigation with Debtor and its affiliates in various ways, the Debtor has been in litigation with Patrick Daugherty, a former limited partner and employee of the Debtor, for many years in both Delaware and Texas state courts. Mr. Daugherty filed an amended

proof of claim in this Chapter 11 Case for \$40,710,819.42 relating to alleged breaches of employment-related agreements and for defamation arising from a 2017 press release posted by the Debtor. The Debtor and Mr. Daugherty recently announced a settlement of Mr. Daugherty's claim pursuant to which he will receive \$750,000 in cash on the Effective Date of the Plan, an \$8.25 million general unsecured claim, and a \$2.75 million subordinated claim (subject to other details not relevant for this purpose). Additionally, entities collectively known as "HarbourVest" invested more than \$70 million with an entity in the Highland complex and asserted a \$300 million proof of claim against the Debtor in this case, alleging, among other things, fraud and RICO violations. HarbourVest's claim was settled during the bankruptcy case for a \$45 million general unsecured claim and a \$35 million subordinated claim, and that settlement is also being appealed by a Dondero Entity.

10. **Other Claims Asserted.** Other than the Claims just described, most of the other Claims in this Chapter 11 Case are Claims asserted against the Debtor by: (a) entities in the Highland complex—most of which entities the Bankruptcy Court finds to be controlled by Mr. Dondero; (b) employees who contend that are entitled to large bonuses or other types of deferred compensation; and (c) numerous law firms that worked for the Debtor prior to the Petition Date and had outstanding amounts due for their prepetition services.

11. **Not Your Garden Variety Post-Petition Corporate Governance Structure.** Yet another reason this is not your garden variety chapter 11 case is its post-petition corporate governance structure. Immediately from its appointment, the Committee's relationship with the Debtor was contentious at best. First, the Committee moved for a change of venue from

Delaware to Dallas. Second, the Committee (and later, the United States Trustee) expressed its then-desire for the appointment of a chapter 11 trustee due to its concerns over and distrust of Mr. Dondero, his numerous conflicts of interest, and his history of alleged mismanagement (and perhaps worse).

12. **Post-Petition Corporate Governance Settlement with Committee.** After spending many weeks under the threat of the potential appointment of a trustee, the Debtor and Committee engaged in substantial and lengthy negotiations resulting in a corporate governance settlement approved by the Bankruptcy Court on January 9, 2020.<sup>5</sup> As a result of this settlement, among other things, Mr. Dondero relinquished control of the Debtor and resigned his positions as an officer or director of the Debtor and its general partner, Strand. As noted above, Mr. Dondero agreed to this settlement pursuant a stipulation he executed,<sup>6</sup> and he also agreed not to cause any Related Entity (as defined in the Settlement Motion) to terminate any agreements with the Debtor. The January 9 Order also (a) required that the Bankruptcy Court serve as “gatekeeper” prior to the commencement of any litigation against the three independent board members appointed to oversee and lead the Debtor’s restructuring in lieu of Mr. Dondero and (b) provided for the exculpation of those board members by limiting claims subject to the “gatekeeper” provision to those alleging willful misconduct and gross negligence.

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<sup>5</sup> This order is hereinafter referred to as the “January 9 Order” and was entered by the Court on January 9, 2020 [Docket No. 339] pursuant to the *Motion of the Debtor to Approve Settlement with Official Committee of Unsecured Creditors Regarding the Governance of the Debtor and Procedures for Operation in the Ordinary Course* [Docket No. 281] (the “Settlement Motion”).

<sup>6</sup> See *Stipulation in Support of Motion of the Debtor for Approval of Settlement With the Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in Ordinary Course* [Docket No. 338] (the “Stipulation”).

13. **Appointment of Independent Directors.** As part of the Bankruptcy Court-approved settlement, three eminently qualified independent directors were chosen to lead Highland through its Chapter 11 Case. They are: James P. Seery, Jr., John S. Dubel (each chosen by the Committee), and Retired Bankruptcy Judge Russell Nelms. These three individuals are each technically independent directors of Strand (Mr. Dondero had previously been the sole director of Strand and, thus, the sole person in ultimate control of the Debtor). The three independent board members' resumes are in evidence. The Bankruptcy Court later approved Mr. Seery's appointment as the Debtor's Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative. Suffice it to say that this settlement and the appointment of the independent directors changed the entire trajectory of the case and saved the Debtor from the appointment of a trustee. The Bankruptcy Court and the Committee each trusted the independent directors. They were the right solution at the right time. Because of the unique character of the Debtor's business, the Bankruptcy Court believed the appointment of three qualified independent directors was a far better outcome for creditors than the appointment of a conventional chapter 11 trustee. Each of the independent directors brought unique qualities to the table. Mr. Seery, in particular, knew and had vast experience at prominent firms with high-yield and distressed investing similar to the Debtor's business. Mr. Dubel had 40 years of experience restructuring large complex businesses and serving on boards in this context. And Retired Judge Nelms had not only vast bankruptcy experience but seemed particularly well-suited to help the Debtor maneuver through conflicts and ethical quandaries. By way of comparison, in the chapter 11 case of Acis, the former affiliate of Highland that the Bankruptcy Court presided over and which company was

much smaller in size and scope than Highland (managing only 5-6 CLOs), the creditors elected a chapter 11 trustee who was not on the normal trustee rotation panel in this district but, rather, was a nationally known bankruptcy attorney with more than 45 years of large chapter 11 experience. While the Acis chapter 11 trustee performed valiantly, he was sued by entities in the Highland complex shortly after he was appointed (which the Bankruptcy Court had to address). The Acis trustee was also unable to persuade the Debtor and its affiliates to agree to any actions taken in the case, and he finally obtained confirmation of Acis' chapter 11 plan over the objections of the Debtor and its affiliates on his fourth attempt (which confirmation was promptly appealed).

14. **Conditions Required by Independent Directors.** Given the experiences in Acis and the Debtor's culture of constant litigation, it was not as easy to get such highly qualified persons to serve as independent board members and, later, as the Debtor's Chief Executive Officer, as it would be in an ordinary chapter 11 case. The independent board members were stepping into a morass of problems. Naturally, they were worried about getting sued no matter how defensible their efforts—given the litigation culture that enveloped Highland historically. Based on the record of this Case and the proceedings in the Acis chapter 11 case, it seemed as though everything always ended in litigation at Highland. The Bankruptcy Court heard credible testimony that none of the independent directors would have taken on the role of independent director without (1) an adequate directors and officers' ("D&O") insurance policy protecting them; (2) indemnification from Strand that would be guaranteed by the Debtor; (3) exculpation for mere negligence claims; and (4) a gatekeeper provision prohibiting the commencement of litigation against the independent directors without the Bankruptcy Court's prior authority. This gatekeeper provision was also



included in the Bankruptcy Court’s order authorizing the appointment of Mr. Seery as the Debtor’s Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative entered on July 16, 2020.<sup>7</sup> The gatekeeper provisions in both the January 9 Order and July 16 Order are precisely analogous to what bankruptcy trustees have pursuant to the so-called “Barton Doctrine” (first articulated in an old Supreme Court case captioned *Barton v. Barbour*, 104 U.S. 126 (1881)). The Bankruptcy Court approved all of these protections in the January 9 Order and the July 16 Order, and no one appealed either of those orders. As noted above, Mr. Dondero signed the Stipulation that led to the settlement that was approved by the January 9 Order. The Bankruptcy Court finds that, like the Committee, the independent board members have been resilient and unwavering in their efforts to get the enormous problems in this case solved. They seem to have at all times negotiated hard and in good faith, which culminated in the proposal of the Plan currently before the Bankruptcy Court. As noted previously, they completely changed the trajectory of this case.

15. **Not Your Garden Variety Mediators.** And still another reason why this was not your garden variety case was the mediation effort. In the summer of 2020, roughly nine months into the chapter 11 case, the Bankruptcy Court ordered mediation among the Debtor, Acis, UBS, the Redeemer Committee, and Mr. Dondero. The Bankruptcy Court selected co-mediators because mediation among these parties seemed like such a Herculean task—especially during COVID-19 where people could not all be in the same room. Those co-mediators were: Retired

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<sup>7</sup> See *Order Approving the Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 (the “July 16 Order”)

Bankruptcy Judge Alan Gropper from the Southern District of New York, who had a distinguished career presiding over complex chapter 11 cases, and Ms. Sylvia Mayer, who likewise has had a distinguished career, first as a partner at a preeminent law firm working on complex chapter 11 cases, and subsequently as a mediator and arbitrator in Houston, Texas. As noted earlier, the Redeemer Committee and Acis claims were settled during the mediation—which seemed nothing short of a miracle to the Bankruptcy Court—and the UBS claim was settled several months later and the Bankruptcy Court believes the ground work for that ultimate settlement was laid, or at least helped, through the mediation. And, as earlier noted, other significant claims have been settled during this case, including those of HarbourVest (who asserted a \$300 million claim) and Patrick Daugherty (who asserted a \$40 million claim). The Bankruptcy Court cannot stress strongly enough that the resolution of these enormous claims—and the acceptance by all of these creditors of the Plan that is now before the Bankruptcy Court—seems nothing short of a miracle. It was more than a year in the making.

**16. Not Your Garden Variety Plan Objectors (That Is, Those That Remain).** Finally, a word about the current, remaining objectors to the Plan before the Bankruptcy Court. Once again, the Bankruptcy Court will use the phrase “not your garden variety”, which phrase applies to this case for many reasons. Originally, there were over a dozen objections filed to the Plan. The Debtor then made certain amendments or modifications to the Plan to address some of these objections, none of which require further solicitation of the Plan for reasons set forth in more detail below. The only objectors to the Plan left at the time of the Confirmation Hearing

were Mr. Dondero [Docket No. 1661] and entities that the Bankruptcy Court finds are owned and/or controlled by him and that filed the following objections:

- a. *Objection to Confirmation of the Debtor's Fifth Amended Plan of Reorganization* (filed by Get Good Trust and The Dugaboy Investment Trust) [Docket No. 1667];
- b. *Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* (filed by Highland Capital Management Fund Advisors, L.P., Highland Fixed Income Fund, Highland Funds I and its series, Highland Funds II and its series, Highland Global Allocation Fund, Highland Healthcare Opportunities Fund, Highland Income Fund, Highland Merger Arbitrate Fund, Highland Opportunistic Credit Fund, Highland Small-Cap Equity Fund, Highland Socially Responsible Equity Fund, Highland Total Return Fund, Highland/iBoxx Senior Loan ETF, NexPoint Advisors, L.P., NexPoint Capital, Inc., NexPoint Real Estate Strategies Fund, NexPoint Strategic Opportunities Fund) [Docket No. 1670];
- c. *A Joinder to the Objection filed at 1670 by: NexPoint Real Estate Finance Inc., NexPoint Real Estate Capital, LLC, NexPoint Residential Trust, Inc., NexPoint Hospitality Trust, NexPoint Real Estate Partners, LLC, NexPoint Multifamily Capital Trust, Inc., VineBrook Homes Trust, Inc., NexPoint Real Estate Advisors, L.P., NexPoint Real Estate Advisors II, L.P., NexPoint Real Estate Advisors III, L.P., NexPoint Real Estate Advisors IV, L.P., NexPoint Real Estate Advisors V, L.P., NexPoint Real Estate Advisors VI, L.P., NexPoint Real Estate Advisors VII, L.P., NexPoint Real Estate Advisors VIII, L.P., and any funds advised by the foregoing* [Docket No. 1677];
- d. *NexPoint Real Estate Partners LLC's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexPoint Real Estate Partners LLC f/k/a HCRE Partners LLC) [Docket No. 1673]; and
- e. *NexBank's Objection to Debtor's Fifth Amended Plan of Reorganization* (filed by NexBank Title, Inc., NexBank Securities, Inc., NexBank Capital, Inc., and NexBank) [Docket No. 1676]. The entities referred to in (i) through (v) of this paragraph are hereinafter referred to as the "Dondero Related Entities").

**17. Questionability of Good Faith as to Outstanding Confirmation**

**Objections.** Mr. Dondero and the Dondero Related Entities technically have standing to object to the Plan, but the remoteness of their economic interests is noteworthy, and the Bankruptcy Court

questions the good faith of Mr. Dondero's and the Dondero Related Entities' objections. In fact, the Bankruptcy Court has good reason to believe that these parties are not objecting to protect economic interests they have in the Debtor but to be disruptors. Mr. Dondero wants his company back. This is understandable, but it is not a good faith basis to lob objections to the Plan. As detailed below, the Bankruptcy Court has slowed down plan confirmation multiple times and urged the parties to talk to Mr. Dondero in an attempt to arrive at what the parties have repeatedly referred to as a "grand bargain," the ultimate goal to resolve the Debtor's restructuring. The Debtor and the Committee represent that they have communicated with Mr. Dondero regarding a grand bargain settlement, and the Bankruptcy Court believes that they have.

18. **Remote Interest of Outstanding Confirmation Objectors.** To be specific about the remoteness of Mr. Dondero's and the Dondero Related Entities' interests, the Bankruptcy Court will address them each separately. First, Mr. Dondero has a pending objection to the Plan. Mr. Dondero's only economic interest with regard to the Debtor is an unliquidated indemnification claim (and, based on everything the Bankruptcy Court has heard, his indemnification claims would be highly questionable at this juncture). Mr. Dondero owns no equity in the Debtor directly. Mr. Dondero owns the Debtor's general partner, Strand, which in turn owns a quarter percent of the total equity in the Debtor. Second, a joint objection has been filed by The Dugaboy Trust ("Dugaboy") and the Get Good Trust ("Get Good"). The Dugaboy Trust was created to manage the assets of Mr. Dondero and his family and owns a 0.1866% limited partnership interest in the Debtor. *See* Disclosure Statement at 7, n.3. The Bankruptcy Court is not clear what economic interest the Get Good Trust has, but it likewise seems to be related to Mr. Dondero. Get Good

filed three proofs of claim relating to a pending federal tax audit of the Debtor's 2008 return, which the Debtor believes arise from Get Good's equity security interests and are subject to subordination as set forth in its Confirmation Brief. Dugaboy filed three claims against the Debtor: (a) an administrative claim relating to the Debtor's alleged postpetition management of Multi-Strat Credit Fund, L.P., (b) a prepetition claim against a subsidiary of the Debtor for which it seeks to pierce the corporate veil, each of which the Debtor maintains are frivolous in the Confirmation Brief, and (c) a claim arising from its equity security interest in the Debtor, which the Debtor asserts should be subordinated. Another group of objectors that has joined together in one objection is what the Bankruptcy Court will refer to as the "Highland Advisors and Funds." *See* Docket No. 1863. The Bankruptcy Court understands they assert disputed administrative expense claims against the estate that were filed shortly before the Confirmation Hearing on January 23, 2021 [Docket No. 1826], and during the Confirmation Hearing on February 3, 2021 [Docket No. 1888]. At the Confirmation Hearing, Mr. Post testified on behalf of the Highland Advisors and Funds that the Funds have independent board members that run the Funds, but the Bankruptcy Court was not convinced of their independence from Mr. Dondero because none of the so-called independent board members have ever testified before the Bankruptcy Court and all have been engaged with the Highland complex for many years. Notably, the Court questions Mr. Post's credibility because, after more than 12 years of service, he abruptly resigned from the Debtor in October 2020 at the exact same time that Mr. Dondero resigned at the Board of Directors' request, and he is currently employed by Mr. Dondero. Moreover, Dustin Norris, a witness in a prior proceeding (whose testimony was made part of the record at the Confirmation Hearing), recently

testified on behalf of the Highland Advisors and Funds in another proceeding that Mr. Dondero owned and/or controlled these entities. Finally, various NexBank entities objected to the Plan. The Bankruptcy Court does not believe they have liquidated claims against the Debtor. Mr. Dondero appears to be in control of these entities as well.

19. **Background Regarding Dondero Objecting Parties.** To be clear, the Bankruptcy Court has allowed all these objectors to fully present arguments and evidence in opposition to confirmation, even though their economic interests in the Debtor appear to be extremely remote and the Bankruptcy Court questions their good faith. Specifically, the Bankruptcy Court considers them all to be marching pursuant to the orders of Mr. Dondero. In the recent past, Mr. Dondero has been subject to a temporary restraining order and preliminary injunction by the Bankruptcy Court for interfering with Mr. Seery's management of the Debtor in specific ways that were supported by evidence. Around the time that this all came to light and the Bankruptcy Court began setting hearings on the alleged interference, Mr. Dondero's company phone, which he had been asked to turn in to Highland, mysteriously went missing. The Bankruptcy Court merely mentions this in this context as one of many reasons that the Bankruptcy Court has to question the good faith of Mr. Dondero and his affiliates in raising objections to confirmation of the Plan.

20. **Other Confirmation Objections.** Other than the objections filed by Mr. Dondero and the Dondero Related Entities, the only other pending objection to the Plan is the *United States Trustee's Limited Objection to Confirmation of Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1671], which objected to the Plan's exculpation, injunction, and

Debtor release provisions. In juxtaposition, to these pending objections, the Bankruptcy Court notes that the Debtor resolved the following objections to the Plan:

- a. *CLO Holdco, Ltd.'s Joinder to Objection to Confirmation of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. and Supplemental Objections to Plan Confirmation* [Docket No. 1675]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph VV of the Confirmation Order;
- b. *Objection of Dallas County, City of Allen, Allen ISD, City of Richardson, and Kaufman County to Confirmation of the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1662]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph QQ of the Confirmation Order;
- c. *Senior Employees' Limited Objection to Debtor's Fifth Amended Plan of Reorganization (filed by Scott Ellington, Thomas Surgent, Frank Waterhouse, Isaac Leventon)* [Docket No. 1669]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraph 82 and paragraphs RR and SS of the Confirmation Order;
- d. *Limited Objection of Jack Yang and Brad Borud to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 1666] and the amended joinder filed by Davis Deadman, Paul Kauffman and Todd Travers [Docket No. 1679]. This Objection and the amended joinder were resolved by agreement of the parties pursuant to modifications to the Plan filed by the Debtor;
- e. *United States' (IRS) Limited Objection to Debtor's Fifth Amended Plan of Reorganization* [Docket No. 1668]. This Objection has been resolved pursuant to mutually agreed language by the parties set forth in paragraphs TT and UU of the Confirmation Order; and
- f. *Patrick Hagaman Daugherty's Objection to Confirmation of Fifth Amended Plan of Reorganization* [Docket No. 1678]. This objection was resolved by the parties pursuant to the settlement of Mr. Daugherty's claim announced on the record of the Confirmation Hearing.

21. **Capitalized Terms.** Capitalized terms used herein, but not defined herein, shall have the respective meanings attributed to such terms in the Plan and the Disclosure Statement, as applicable.



22. **Jurisdiction and Venue.** The Bankruptcy Court has jurisdiction over the Debtor's Chapter 11 Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Chapter 11 Case is proper in this district and in the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

23. **Chapter 11 Petition.** On the Petition Date, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which case was transferred to the Bankruptcy Court on December 19, 2019. The Debtor continues to operate its business and manage its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case. The Office of the United States Trustee appointed the Committee on October 29, 2019.

24. **Judicial Notice.** The Bankruptcy Court takes judicial notice of the docket in this Chapter 11 Case maintained by the clerk of the Bankruptcy Court and the court-appointed claims agent, Kurtzman Carson Consultants LLC ("KCC"), including, without limitation, all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered or adduced at the hearings held before the Bankruptcy Court during this Chapter 11 Case, including, without limitation, the hearing to consider the adequacy of the Disclosure Statement and the Confirmation Hearing, as well as all pleadings, notices, and other documents filed, all orders entered, and all evidence and arguments made, proffered, or adduced at hearings held before the Bankruptcy Court or the District Court for the Northern District of Texas in

connection with an adversary proceeding or appellate proceeding, respectively, related to this Chapter 11 Case.

25. **Plan Supplement Documents.** Prior to the Confirmation Hearing, the Debtor filed each of the Plan Supplements. The Plan Supplements contain, among other documents, the Retained Causes of Action, the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, the Senior Employee Stipulation, the Related Entity List, the Schedule of Employees, the Reorganized Limited Partnership Agreement, supplements to the Liquidation Analysis/Financial Projections, the Schedule of Contracts and Leases to be Assumed, and the other Plan Documents set forth therein (collectively, the “Plan Supplement Documents”).

26. **Retained Causes of Action Adequately Preserved.** The Bankruptcy Court finds that the list of Retained Causes of Action included in the Plan Supplements sufficiently describes all potential Retained Causes of Action, provides all persons with adequate notice of any Causes of Action regardless of whether any specific claim to be brought in the future is listed therein or whether any specific potential defendant or other party is listed therein, and satisfies applicable law in all respects to preserve all of the Retained Causes of Action. The definition of the Causes of Action and Schedule of Retained Causes of Action, and their inclusion in the Plan, specifically and unequivocally preserve the Causes of Action for the benefit of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust, as applicable.

27. **Plan Modifications Are Non-Material.** In addition to the Plan Supplements, the Debtor made certain non-material modifications to the Plan, which are reflected in (i) the *Redline of Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*

(as Modified) filed on January 22, 2021 [Docket No. 1809], and (ii) Exhibit B to the *Debtor's Notice of Filing of Plan Supplement to Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* filed on February 1, 2021 [Docket No. 1875] (collectively, the "Plan Modifications"). Section 1127(a) of the Bankruptcy Code provides that a plan proponent may modify its plan at any time before confirmation so long as such modified plan meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. None of the modifications set forth in the Plan Supplements or the Plan Modifications require any further solicitation pursuant to sections 1125, 1126, or 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, because, among other things, they do not materially adversely change the treatment of the claims of any creditors or interest holders who have not accepted, in writing, such supplements and modifications. Among other things, there were changes to the projections that the Debtor filed shortly before the Confirmation Hearing (which included projected distributions to creditors and a comparison of projected distributions under the Plan to potential distributions under a hypothetical chapter 7 liquidation). The Plan Supplements and Plan Modifications did not mislead or prejudice any creditors or interest holders nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes to accept or reject the Plan. Specifically, the Amended Liquidation Analysis/Financial Projections filed on February 1, 2021 [Docket No. 1875] do not constitute any material adverse change to the treatment of any creditors or interest holders but, rather, simply update the estimated distributions based on Claims that were settled in the interim and provide updated financial data. The filing and notice of the Plan Supplements and Plan Modifications were appropriate and complied with the requirements of

section 1127(a) of the Bankruptcy Code and the Bankruptcy Rules, and no other solicitation or disclosure or further notice is or shall be required. The Plan Supplements and Plan Modifications each became part of the Plan pursuant section 1127(a) of the Bankruptcy Code. The Debtor or Reorganized Debtor, as applicable, is authorized to modify the Plan or Plan Supplement Documents following entry of this Confirmation Order in a manner consistent with section 1127(b) of the Bankruptcy Code, the Plan, and, if applicable, the terms of the applicable Plan Supplement Document.

28. **Notice of Transmittal, Mailing and Publication of Materials.** As is evidenced by the Voting Certifications and the Affidavits of Service and Publication, the transmittal and service of the Plan, the Disclosure Statement, Ballots, and Confirmation Hearing Notice were adequate and sufficient under the circumstances, and all parties required to be given notice of the Confirmation Hearing (including the deadline for filing and serving objections to the confirmation of the Plan) have been given due, proper, timely, and adequate notice in accordance with the Disclosure Statement Order and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and applicable non-bankruptcy law, and such parties have had an opportunity to appear and be heard with respect thereto. No other or further notice is required. The publication of the Confirmation Hearing Notice, as set forth in the *Notice of Affidavit of Publication* dated December 3, 2020 [Docket No. 1505], complied with the Disclosure Statement Order.

29. **Voting.** The Bankruptcy Court has reviewed and considered the Voting Certifications. The procedures by which the Ballots for acceptance or rejection of the Plan were

distributed and tabulated, including the tabulation as subsequently amended to reflect the settlement of certain Claims to be Allowed in Class 7, were fairly and properly conducted and complied with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

30. **Bankruptcy Rule 3016(a).** In accordance with Bankruptcy Rule 3016(a), the Plan is dated and identifies the Debtor as the proponent of the Plan.

31. **Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)).** As set forth below, the Plan complies with all of the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

32. **Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1122 of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interest of such class. The Claims and Equity Interests placed in each Class are substantially similar to other Claims and Equity Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Equity Interests.

33. **Classification of Secured Claims.** Class 1 (Jefferies Secured Claim) and Class 2 (Frontier Secured Claim) each constitute separate secured claims held by Jefferies LLC and Frontier State Bank, respectively, and it is proper and consistent with section 1122 of the Bankruptcy Code to separately classify the claims of these secured creditors. Class 3 (Other

Secured Claims) consists of other secured claims (to the extent any exist) against the Debtor, are not substantially similar to the Secured Claims in Class 1 or Class 2, and are also properly separately classified.

34. **Classification of Priority Claims.** Class 4 (Priority Non-Tax Claims) consists of Claims entitled to priority under section 507(a), other than Priority Tax Claims, and are properly separately classified from non-priority unsecured claims. Class 5 (Retained Employee Claims) consists of the potential claims of employees who may be retained by the Debtor on the Effective Date, which claims will be Reinstated under the Plan, are not substantially similar to other Claims against the Debtor, and are properly classified.

35. **Classification of Unsecured Claims.** Class 6 (PTO Claims) consists solely of the claims of the Debtor's employees for unpaid paid time off in excess of the \$13,650 statutory cap amount under sections 507(a)(4) and (a)(5) of the Bankruptcy Code and are dissimilar from other unsecured claims in Class 7 and Class 8. Class 7 (Convenience Claims) allows holders of eligible and liquidated Claims (below a certain threshold dollar amount) to receive a cash payout of the lesser of 85% of the Allowed amount of the creditor's Claim or such holder's *pro rata* share of the Convenience Claims Cash Pool. Class 7 (Convenience Claims) are provided for administrative convenience purposes in order to allow creditors, most of whom are either trade creditors or holders of professional claims, to receive treatment provided under Class 7 in lieu of the treatment of Class 8 (General Unsecured Claims). The Plan also provides for reciprocal "opt out" mechanisms to allow holders of Class 7 Claims to elect to receive the treatment for Class 8 Claims. Class 8 creditors primarily constitute the litigation claims of the Debtor. Class 8 Creditors

will receive Claimant Trust Interests which will be satisfied pursuant to the terms of the Plan. Class 8 also contains an “opt out” mechanism to allow holders of liquidated Class 8 Claims at or below a \$1 million threshold to elect to receive the treatment of Class 7 Convenience Claims. The Claims in Class 7 (primarily trade and professional Claims against the Debtor) are not substantially similar to the Claims in Class 8 (primarily the litigation Claims against the Debtor), and are appropriately separately classified. Valid business reasons also exist to classify creditors in Class 7 separately from creditors in Class 8. Class 7 creditors largely consist of liquidated trade or service providers to the Debtor. In addition, the Claims of Class 7 creditors are small relative to the large litigation claims in Class 8. Furthermore, the Class 8 Claims were overwhelmingly unliquidated when the Plan was filed. The nature of the Class 7 Claims as being largely liquidated created an expectation of expedited payment relative to the largely unliquidated Claims in Class 8, which consists in large part of parties who have been engaged in years, and in some cases over a decade of litigation with the Debtor. Separate classification of Class 7 and Class 8 creditors was the subject of substantial arm’s-length negotiations between the Debtor and the Committee to appropriately reflect these relative differences.

36. **Classification of Equity Interests.** The Plan properly separately classifies the Equity Interests in Class 10 (Class B/C Limited Partnership Interests) from the Equity Interests in Class 11 (Class A Limited Partnership Interests) because they represent different types of equity security interests in the Debtor and different payment priorities.

37. **Elimination of Vacant Classes.** Section III.C of the Plan provides for the elimination of Classes that do not have at least one holder of a Claim or Equity Interest that is



Allowed in an amount greater than zero for purposes of voting to accept or reject the Plan, and are disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class. The purpose of this provision is to provide that a Class that does not have voting members shall not be included in the tabulation of whether that Class has accepted or rejected the Plan. Pursuant to the Voting Certifications, the only voting Class of Claims or Equity Interests that did not have any members is Class 5 (Retained Employees). As noted above, Class 5 does not have any voting members because any potential Claims in Class 5 would not arise, except on account of any current employees of the Debtor who may be employed as of the Effective Date, which is currently unknown. Thus, the elimination of vacant Classes provided in Article III.C of the Plan does not violate section 1122 of the Bankruptcy Code. Class 5 is properly disregarded for purposes of determining whether or not the Plan has been accepted under Bankruptcy Code section 1129(a)(8) because there are no members in that Class. However, the Plan properly provides for the treatment of any Claims that may potentially become members of Class 5 as of the Effective Date in accordance with the terms of the Plan. The Plan therefore satisfies section 1122 of the Bankruptcy Code.

38. **Classification of Claims and Designation of Non-Classified Claims (11 U.S.C. §§ 1122, 1123(a)(1)).** Section 1123(a)(1) of the Bankruptcy Code requires that the Plan specify the classification of claims and equity security interests pursuant to section 1122 of the Bankruptcy Code, other than claims specified in sections 507(a)(2), 507(a)(3), or 507(a)(8) of the Bankruptcy Code. In addition to Administrative Claims, Professional Fee Claims, and Priority Tax Claims, each of which need not be classified pursuant to section 1123(a)(1) of the Bankruptcy

Code, the Plan designates eleven (11) Classes of Claims and Equity Interests. The Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

39. **Specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)).** Article III of the Plan specifies that each of Class 1 (Jefferies Secured Claim), Class 3 (Other Secured Claims), Class 4 (Priority Non-Tax Claims), Class 5 (Retained Employee Claims), and Class 6 (PTO Claims) are Unimpaired under the Plan. Thus, the requirement of section 1123(a)(2) of the Bankruptcy Code is satisfied.

40. **Specification of Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)).** Article III of the Plan designates each of Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), Class 8 (General Unsecured Claims), Class 9 (Subordinated Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) as Impaired and specifies the treatment of Claims and Equity Interests in such Classes. Thus, the requirement of section 1123(a)(3) of the Bankruptcy Code is satisfied.

41. **No Discrimination (11 U.S.C. § 1123(a)(4)).** The Plan provides for the same treatment by the Plan proponent for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest. The Plan satisfies this requirement because Holders of Allowed Claims or Equity Interests in each Class will receive the same rights and treatment as other Holders of Allowed Claims or Equity Interests within such holder's respective class, subject only to the voluntary "opt out" options afforded to members of Class 7 and Class 8 in accordance with the terms of the Plan. Thus, the requirement of section 1123(a)(4) of the Bankruptcy Code is satisfied.

42. **Implementation of the Plan (11 U.S.C. § 1123(a)(5)).** Article IV of the Plan sets forth the means for implementation of the Plan which includes, but is not limited to, the establishment of: (i) the Claimant Trust; (ii) the Litigation Sub-Trust; (iii) the Reorganized Debtor; and (iv) New GP LLC, in the manner set forth in the Plan Documents, the forms of which are included in the Plan Supplements.

- a. **The Claimant Trust.** The Claimant Trust Agreement provides for the management of the Claimant Trust, as well as the Reorganized Debtor with the Claimant Trust serving as the managing member of New GP LLC (a wholly-owned subsidiary of the Claimant Trust that will manage the Reorganized Debtor as its general partner). The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will all be managed and overseen by the Claimant Trust Oversight Committee. Additionally, the Plan provides for the transfer to the Claimant Trust of all of the Debtor's rights, title, and interest in and to all of the Claimant Trust Assets in accordance with section 1141 of the Bankruptcy Code and for the Claimant Trust Assets to automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement. The Claimant Trust will administer the Claimant Trust Assets as provided under the Plan and the Claimant Trust Agreement contained in the Plan Supplements.
- b. **The Litigation Sub-Trust.** The Plan and the Litigation Sub-Trust Agreement provide for the transfer to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims (as transferred to the Claimant Trust by the Debtor) in accordance with section 1141 of the Bankruptcy Code and for the Estate Claims to automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and the Litigation Sub-Trust Expenses, as provided for in the Litigation Sub-Trust Agreement. The Litigation Trustee is charged with investigating, pursuing, and otherwise resolving any Estate Claims (including those with respect to which the Committee has standing to pursue prior to the Effective Date pursuant to the January 9 Order) pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, regardless of whether any litigation with respect to any Estate Claim was commenced by the Debtor or the Committee prior to the Effective Date.

- c. **The Reorganized Debtor.** The Reorganized Debtor will administer the Reorganized Debtor Assets, which includes managing the wind down of the Managed Funds.

The precise terms governing the execution of these restructuring transactions are set forth in greater detail in the applicable definitive documents included in the Plan Supplements, including the Claimant Trust Agreement, the Litigation Sub-Trust Agreement, and the Schedule of Retained Causes of Action. The Plan, together with the documents and forms of agreement included in the Plan Supplements, provides a detailed blueprint for the transactions contemplated by the Plan. The Plan's various mechanisms provide for the Debtor's continued management of its business as it seeks to liquidate the Debtor's assets, wind down its affairs, and pay the Claims of the Debtor's creditors. Upon full payment of Allowed Claims, plus interest as provided in the Plan, any residual value would then flow to the holders of Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests). Finally, Mr. Seery testified that the Debtor engaged in substantial and arm's length negotiations with the Committee regarding the Debtor's post-Effective Date corporate governance, as reflected in the Plan. Mr. Seery testified that he believes the selection of the Claimant Trustee, Litigation Trustee, and members of the Claimant Trust Oversight Board are in the best interests of the Debtor's economic constituents. Thus, the requirements of section 1123(a)(5) of the Bankruptcy Code are satisfied.

43. **Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)).** The Debtor is not a corporation and the charter documents filed in the Plan Supplements otherwise comply with section 1123(a)(6) of the Bankruptcy Code. Therefore, the requirement of section 1123(a)(6) of the Bankruptcy Code is satisfied.

44. **Selection of Officers and Directors (11 U.S.C. § 1123(a)(7)).** Article IV of the Plan provides for the Claimant Trust to be governed and administered by the Claimant Trustee. The Claimant Trust, the management of the Reorganized Debtor, and the management and monetization of the Claimant Trust Assets and the Litigation Sub-Trust will be managed by the Claimant Trust Oversight Board. The Claimant Trust Oversight Board will consist of: (1) Eric Felton, as representative of the Redeemer Committee; (2) Joshua Terry, as representative of Acis; (3) Elizabeth Kozlowski, as representative of UBS; (4) Paul McVoy, as representative of Meta-E Discovery; and (5) David Pauker. Four of the members of the Claimant Trust Oversight Committee are the holders of several of the largest Claims against the Debtor and/or are current members of the Committee. Each of these creditors has actively participated in the Debtor's case, both through their fiduciary roles as Committee members and in their individual capacities as creditors. They are therefore intimately familiar with the Debtor, its business, and assets. The fifth member of the Claimant Trust Oversight Board, David Pauker, is a disinterested restructuring advisor and turnaround manager with more than 25 years of experience advising public and private companies and their investors, and he has substantial experience overseeing, advising or investigating troubled companies in the financial services industry and has advised or managed such companies on behalf of boards or directors, court-appointed trustees, examiners and special masters, government agencies, and private investor parties. The members of the Claimant Trust Oversight Board will serve without compensation, except for Mr. Pauker, who will receive payment of \$250,000 for his first year of service, and \$150,000 for subsequent years.

45. **Selection of Trustees.** The Plan Supplements disclose that Mr. Seery will serve as the Claimant Trustee and Marc Kirschner will serve as the Litigation Trustee. As noted above, Mr. Seery has served as an Independent Board member since January 2020, and as the Chief Executive Officer and Chief Restructuring Officer since July 2020, and he has extensive management and restructuring experience, as evidenced from his curriculum vitae which is part of the record. The evidence shows that Mr. Seery is intimately familiar with the Debtor's organizational structure, business, and assets, as well as how Claims will be treated under the Plan. Accordingly, it is reasonable and in the Estate's best interests to continue Mr. Seery's employment post-emergence as the Claimant Trustee. Mr. Seery, upon consultation with the Committee, testified that he intends to employ approximately 10 of the Debtor's employees to enable him to manage the Debtor's business until the Claimant Trust effectively monetizes its remaining assets, instead of hiring a sub-servicer to accomplish those tasks. Mr. Seery testified that he believes that the Debtor's post-confirmation business can most efficiently and cost-effectively be supported by a sub-set of the Debtor's current employees, who will be managed internally. Mr. Seery shall initially be paid \$150,000 per month for services rendered after the Effective Date as Claimant Trustee; however, Mr. Seery's long-term salary as Claimant Trustee and the terms of any bonuses and severance are subject to further negotiation by Mr. Seery and the Claimant Trust Oversight Board within forty-five (45) days after the Effective Date. The Bankruptcy Court has also reviewed Mr. Kirschner's curriculum vitae. Mr. Kirschner has been practicing law since 1967 and has substantial experience in bankruptcy litigation matters, particularly with respect to his prior experience as a litigation trustee for several litigation trusts, as set forth on the record of the

Confirmation Hearing and in the Confirmation Brief. Mr. Kirschner shall be paid \$40,000 per month for the first three months and \$20,000 per month thereafter, plus a success fee related to litigation recoveries. The Committee and the Debtor had arm's lengths negotiations regarding the post-Effective Date corporate governance structure of the Reorganized Debtor and believe that the selection of the Claimant Trustee, the Litigation Trustee, and the Claimant Trust Oversight Committee are in the best interests of the Debtor's economic stakeholders. Section 1123(a)(7) of the Bankruptcy Code is satisfied.

**46. Debtor's Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

Pursuant to section 1129(a)(2) of the Bankruptcy Code, the Debtor has complied with the applicable provisions of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, and 1126 of the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, the Plan Supplements, and all other matters considered by the Bankruptcy Court in connection with this Chapter 11 Case.

**47. Debtor's Solicitation Complied with Bankruptcy Code and Disclosure**

**Statement Order.** Before the Debtor solicited votes on the Plan, the Bankruptcy Court entered the Disclosure Statement Order. In accordance with the Disclosure Statement Order and evidenced by the Affidavits of Service and Publication, the Debtor appropriately served (i) the Solicitation Packages (as defined in the Disclosure Statement Order) on the Holders of Claims in Classes 2, 7, 8 and 9 and Holders of Equity Interests in Classes 10 and 11 who were entitled to vote on the Plan; and (ii) the Notice of Nonvoting Status (as defined in the Disclosure Statement Order) and the



Confirmation Hearing Notice to the Holders of Claims in Classes 1, 3, 4, 5 and 6, who were not entitled to vote on the Plan pursuant to the Disclosure Statement Order. The Disclosure Statement Order approved the contents of the Solicitation Packages provided to Holders of Claims and Equity Interests entitled to vote on the Plan, the notices provided to parties not entitled to vote on the Plan, and the deadlines for voting on and objecting to the Plan. The Debtor and KCC each complied with the content and delivery requirements of the Disclosure Statement Order, thereby satisfying sections 1125(a) and (b) of the Bankruptcy Code, as evidenced by the Affidavits of Service and Publication. The Debtor also satisfied section 1125(c) of the Bankruptcy Code, which provides that the same disclosure statement must be transmitted to each holder of a claim or interest in a particular class. The Debtor caused the same Disclosure Statement to be transmitted to all holders of Claims and Equity Interests entitled to vote on the Plan. The Debtor has complied in all respects with the solicitation requirements of section 1125 of the Bankruptcy Code and the Disclosure Statement Order. The Bankruptcy Court rejects the arguments of the Mr. Dondero and certain Dondero Related Entities that the changes made to certain assumptions and projections from the Liquidation Analysis annexed as Exhibit C to the Disclosure Statement (the “Liquidation Analysis”) to the Amended Liquidation Analysis/Financial Projections require resolicitation of the Plan. The Bankruptcy Court heard credible testimony from Mr. Seery regarding the changes to the Liquidation Analysis as reflected in the Amended Liquidation Analysis/Financial Projections. Based on the record, including the testimony of Mr. Seery, the Bankruptcy Court finds that the changes between the Liquidation Analysis and the Amended Liquidation Analysis/Financial Projections do not constitute materially adverse change to the treatment of Claims or Equity

Interests. Instead, the changes served to update the projected distributions based on Claims that were settled after the approval of the Disclosure Statement and to otherwise incorporate more recent financial data. Such changes were entirely foreseeable given the large amount of unliquidated Claims at the time the Disclosure Statement was approved and the nature of the Debtor's assets. The Bankruptcy Court therefore finds that holders of Claims and Equity Interests were not misled or prejudiced by the Amended Liquidation Analysis/Financial Projections and the Plan does not need to be resolicited.

48. **Plan Proposed in Good Faith and Not by Means Forbidden by Law (11 U.S.C. § 1129(a)(3)).** The Debtor has proposed the Plan in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of this Chapter 11 Case, the Plan itself, and the extensive, unrebutted testimony of Mr. Seery in which he described the process leading to Plan's formulation. Based on the totality of the circumstances and Mr. Seery's testimony, the Bankruptcy Court finds that the Plan is the result of extensive arm's-length negotiations among the Debtor, the Committee, and key stakeholders, and promotes the objectives and purposes of the Bankruptcy Code. Specifically, the Debtor's good faith in proposing the Plan is supported by the following facts adduced by Mr. Seery:

- a. The Independent Board determined that it should consider all potential restructuring alternatives, including pursuit of a traditional restructuring and the continuation of the Debtor's business, a potential sale of the Debtor's assets in one or more transactions, an asset monetization plan similar to that described in the Plan, and a so-called "grand bargain" plan that would involve Mr. Dondero's sponsorship of a plan with a substantial equity infusion.

- b. The Debtor subsequently engaged in arm's-length, good faith negotiations with the Committee over an asset monetization Plan commencing in June 2020, which negotiations occurred over the next several months.
- c. Negotiations between the Debtor and the Committee were often contentious over disputes, including, but not limited to, the post-confirmation corporate governance structure and the scope of releases contemplated by the Plan.
- d. While negotiations with the Committee progressed, the Independent Board engaged in discussions with Mr. Dondero regarding a potential "grand bargain" plan which contemplated a significant equity infusion by Mr. Dondero, and which Mr. Seery personally spent hundreds of hours pursuing over many months.
- e. On August 3, 2020, the Bankruptcy Court entered the *Order Directing Mediation* [Docket No. 912] pursuant to which the Bankruptcy Court ordered the Debtor, the Committee, UBS, Acis, the Redeemer Committee, and Mr. Dondero into mediation. As a result of this mediation, the Debtor negotiated the settlement of the claims of Acis and Mr. Terry, which the Bankruptcy Court approved on October 28, 2020 [Docket No. 1302].
- f. On August 12, 2020, the Debtor filed its *Chapter 11 Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 944] (the "Initial Plan") and related disclosure statement (the "Initial Disclosure Statement") which were not supported by either the Committee or Mr. Dondero. The Independent Board filed the Initial Plan and Initial Disclosure Statement in order to act as a catalyst for continued discussions with the Committee while it simultaneously worked with Mr. Dondero on the "grand bargain" plan.
- g. The Bankruptcy Court conducted a contested hearing on the Initial Disclosure Statement on October 27, 2020. The Committee and other parties objected to approval of the Disclosure Statement at the Initial Disclosure Statement hearing, which was eventually continued to November 23, 2020.
- h. Following the Initial Disclosure Statement hearing, the Debtor continued to negotiate with the Committee and ultimately resolved the remaining material disputes and led to the Bankruptcy Court's approval of the Disclosure Statement on November 23, 2020.
- i. Even after obtaining the Bankruptcy Court's approval of the Disclosure Statement, the Debtor and the Committee continued to negotiate with Mr. Dondero and the Committee over a potential "pot plan" as an alternative to the Plan on file with the Bankruptcy Court, but such efforts were unsuccessful. This history conclusively demonstrates that the Plan is being proposed in good faith within the meaning of section 1129(a)(3).

49. **Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

Article II.B of the Plan provides that Professionals will file all final requests for payment of Professional Fee Claims no later than 60 days after the Effective Date, thereby providing an adequate period of time for interested parties to review such claims. The procedures set forth in the Plan for the Bankruptcy Court's approval of the fees, costs, and expenses to be paid in connection with this chapter 11 Case, or in connection with the Plan and incident to this Chapter 11 Case, satisfy the objectives of and are in compliance with section 1129(a)(4) of the Bankruptcy Code.

50. **Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).** Article IV.B

of the Plan provides for the appointment of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee and the members thereto. For the reasons more fully explained in paragraphs 44-45 of this Confirmation Order with respect to the requirement of section 1123(a)(7) of the Bankruptcy Code, the Debtor has disclosed the nature of compensation of any insider to be employed or retained by the Reorganized Debtor, if applicable, and compensation for any such insider. The appointment of such individuals is consistent with the interests of Claims and Equity Interests and with public policy. Thus, the Plan satisfies section 1129(a)(5) of the Bankruptcy Code.

51. **No Rate Changes (11 U.S.C. § 1129(a)(6)).** The Plan does not provide for

any rate change that requires regulatory approval. Section 1129(a)(6) of the Bankruptcy Code is thus not applicable.

52. **Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).** The “best interests” test is satisfied as to all Impaired Classes under the Plan, as each Holder of a Claim or Equity Interest in such Impaired Classes will receive or retain property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would so receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. On October 15, 2020, the Debtor filed the Liquidation Analysis [Docket 1173], as prepared by the Debtor with the assistance of its advisors and which was attached as Exhibit C to the Disclosure Statement. On January 29, 2021, in advance of Mr. Seery’s deposition in connection with confirmation of the Plan, the Debtor provided an updated version of the Liquidation Analysis to the then-objectors of the Plan, including Mr. Dondero and the Dondero Related Entities. On February 1, 2021, the Debtor filed the Amended Liquidation Analysis/Financial Projections. The Amended Liquidation Analysis/Financial Projections included updates to the Debtor’s projected asset values, revenues, and expenses to reflect: (1) the acquisition of an interest in an entity known as “HCLOF” that the Debtor will acquire as part of its court-approved settlement with HarbourVest and that was valued at \$22.5 million; (2) an increase in the value of certain of the Debtor’s assets due to changes in market conditions and other factors; (3) expected revenues and expenses arising in connection with the Debtor’s continued management of the CLOs pursuant to management agreements that the Debtor decided to retain; (4) increases in projected expenses for headcount (in addition to adding two or three employees to assist in the management of the CLOs, the Debtor also increased modestly the projected headcount as a result of its decision not to engage a Sub-Servicer) and professional fees; and (5) an increase in projected recoveries on notes resulting from the

acceleration of term notes owed to the Debtor by the following Dondero Related Entities: NexPoint Advisors, L.P.; Highland Capital Management Services, Inc.; and HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC). Under the Plan, as of the Confirmation Date, (a) Class 7 General Unsecured Creditors are projected to receive 85% on account of their claims; and (b) Class 8 General Unsecured Creditors are projected to receive at least approximately 71% on account of their Claims. Under a hypothetical chapter 7 liquidation, all general unsecured creditors are projected to receive approximately 55% on account of their Claims. The Bankruptcy Court finds that the distributions that Class 7 and 8 General Unsecured Creditors are projected to receive under the Plan substantially exceeds that which they would receive under a chapter 7 liquidation based on Mr. Seery's testimony, including the following credible reasons he posited, among others:

- a. The nature of the Debtor's assets is complex. Certain assets relate to complicated real estate structures and private equity investments in operating businesses. Mr. Seery's extensive experience with the Debtor during the thirteen months since his appointment as an Independent Director and later Chief Executive Officer and Chief Restructuring Officer, provides him with a substantial learning curve in connection with the disposition of the Debtor's assets and are reasonably expected to result in him being able to realize tens of millions of dollars more value than would a chapter 7 trustee.
- b. Assuming that a hypothetical chapter 7 trustee could even operate the Debtor's business under chapter 7 of the Bankruptcy Code and hire the necessary personnel with the relevant knowledge and experience to assist him or her in selling the Debtor's assets, a chapter 7 trustee would likely seek to dispose of the Debtor's assets in a forced sale liquidation which would generate substantially less value for the Debtor's creditors than the asset monetization plan contemplated by the Plan.
- c. A chapter 7 trustee would be unlikely to retain the Debtor's existing professionals to assist in its efforts to monetize assets, resulting in delays, increased expenses, and reduced asset yields for the chapter 7 estate.

- d. The chapter 7 estate would be unlikely to maximize value as compared to the asset monetization process contemplated by the Plan because potential buyers are likely to perceive a chapter 7 trustee as engaging in a quick, forced “fire sale” of assets; and
- e. The Debtor’s employees, who are vital to its efforts to maximum value and recoveries for stakeholders, may be unwilling to provide services to a chapter 7 trustee.

Finally, there is no evidence to support the objectors’ argument that the Claimant Trust Agreement’s disclaimed liability for ordinary negligence by the Claimant Trustee compared to a chapter 7 trustee’s liability has any relevance to creditor recoveries in a hypothetical chapter 7 liquidation. Thus, section 1129(a)(7) of the Bankruptcy Code is satisfied.

53. **Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).** Classes 1, 3, 4, 5 and 6 are Unimpaired under the Plan. Class 2 (Frontier Secured Claim), Class 7 (Convenience Claims), and Class 9 (Subordinated Claims) have each voted to accept the Plan in accordance with the Bankruptcy Code, thereby satisfying section 1129(a)(8) as to those Classes. However, Class 8 (General Unsecured Claims), Class 10 (Class B/C Limited Partnership Interests), and Class 11 (Class A Limited Partnership Interests) have not accepted the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has not been satisfied. The Plan, however, is still confirmable because it satisfies the nonconsensual confirmation provisions of section 1129(b), as set forth below.

54. **Treatment of Administrative, Priority, Priority Tax Claims, and Professional Fee Claims (11 U.S.C. § 1129(a)(9)).** The treatment of Administrative Claims, Priority Claims, and Professional Fee Claims pursuant to Article III of the Plan, and as set forth below with respect to the resolution of the objections filed by the Internal Revenue Service and



certain Texas taxing authorities satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code.

55. **Acceptance by Impaired Class (11 U.S.C. § 1129(a)(10)).** Class 2 (Frontier Secured Claims) and Class 7 (Convenience Claims) are each Impaired Classes of Claims that voted to accept the Plan, determined without including any acceptance of the Plan by any insider. Therefore, the requirement of section 1129(a)(10) of the Bankruptcy Code is satisfied.

56. **Feasibility (11 U.S.C. § 1129(a)(11)).** Article IV of the Plan provides for the implementation of the Plan through the Claimant Trust, the Litigation Sub-Trust, and the Reorganized Debtor. The Plan provides that the Claimant Trust, among other things, will monetize and distribute the Debtor's remaining assets. The Disclosure Statement, the Amended Liquidation Analysis/Financial Projections, and the other evidence presented at the Confirmation Hearing provide a reasonable probability of success that the Debtor will be able to effectuate the provisions of the Plan. The Plan contemplates the establishment of the Claimant Trust upon the Effective Date, which will monetize the Estate's assets for the benefit of creditors. Mr. Seery testified that the Class 2 Frontier Secured Claim will be paid over time pursuant to the terms of the New Frontier Note and the Reorganized Debtor will have sufficient assets to satisfy its obligations under this note. The Claims of the Holders of Class 7 Claims (as well as those Class 8 creditors who validly opted to receive the treatment of Class 7 Claims) are expected to be satisfied shortly after the Effective Date. Holders of Class 8 Claims (including any holders of Class 7 Claims who opted to receive the treatment provided to Class 8 Claims) are not guaranteed any recovery and will

periodically receive pro rata distributions as assets are monetized pursuant to the Plan and the Claimant Trust Agreement. Thus, section 1129(a)(11) of the Bankruptcy Code is satisfied.

57. **Payment of Fees (11 U.S.C. § 1129(a)(12)).** All fees payable under 28 U.S.C. § 1930 have been paid or will be paid on or before the Effective Date pursuant to Article XII.A of the Plan, thus satisfying the requirement of section 1129(a)(12) of the Bankruptcy Code. The Debtor has agreed that the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case.

58. **Retiree Benefits.** The Plan provides for the assumption of the Pension Plan (to the extent such Pension Plan provides “retiree benefits” and is governed by section 1114 of the Bankruptcy Code). Thus, the Plan complies with section 1129(a)(13) of the Bankruptcy Code, to the extent applicable.

59. **Miscellaneous Provisions (11 U.S.C. §§ 1129(a)(14)-(16)).** Sections 1129(a)(14)-(16) of the Bankruptcy Code are inapplicable as the Debtor (i) has no domestic support obligations (section 1129(a)(14)), (ii) is not an individual (section 1129(a)(15)), and (iii) is not a nonprofit corporation (section 1129(a)(16)).

60. **No Unfair Discrimination; Fair and Equitable Treatment (11 U.S.C. § 1129(b)).** The classification and treatment of Claims and Equity Interests in Classes 8, 10 and 11, which have not accepted the Plan, is proper pursuant to section 1122 of the Bankruptcy Code, does

not discriminate unfairly, and is fair and equitable pursuant to section 1129(b)(1) of the Bankruptcy Code.

- a. Class 8. The Plan is fair and equitable with respect to Class 8 General Unsecured Claims. While Equity Interests in Class 10 and Class 11 will receive a contingent interest in the Claimant Trust under the Plan (the “Contingent Interests”), the Contingent Interests will not vest unless and until holders of Class 8 General Unsecured Claims and Class 9 Subordinated Claims receive distributions equal to 100% of the amount of their Allowed Claims plus interest as provided under the Plan and Claimant Trust Agreement. Accordingly, as the holders of Equity Interests that are junior to the Claims in Class 8 and Class 9 will not receive or retain under the Plan on account of such junior claim interest any property unless and until the Claims in Class 8 and Class 9 are paid in full plus applicable interest, the Plan is fair and equitable with respect to holders of Class 8 General Unsecured Claims pursuant to section 1129(b)(2)(B) of the Bankruptcy Code and the reasoning of *In re Introgen Therapeutics* 429 B.R 570 (Bankr. W.D. Tex. 2010).
- b. Class 10 and Class 11. There are no Claims or Equity Interests junior to the Equity Interests in Class 10 and Class 11. Equity Interests in Class 10 and 11 will neither receive nor retain any property under the Plan unless Allowed Claims in Class 8 and Class 9 are paid in full plus applicable interest pursuant to the terms of the Plan and Claimant Trust Agreement. Thus, the Plan does not violate the absolute priority rule with respect to Classes 10 and 11 pursuant to Bankruptcy Code section 1129(b)(2)(C). The Plan does not discriminate unfairly as to Equity Interests. As noted above, separate classification of the Class B/C Partnership Interests from the Class A Partnerships Interests is appropriate because they constitute different classes of equity security interests in the Debtor, and each are appropriately separately classified and treated.

Accordingly, the Plan does not violate the absolute priority rule, does not discriminate unfairly, and is fair and equitable with respect to each Class that has rejected the Plan. Thus, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code with respect to Classes 8, 10, and 11.

61. **Only One Plan (11 U.S.C. § 1129(c)).** The Plan is the only chapter 11 plan confirmed in this Chapter 11 Case, and the requirements of section 1129(c) of the Bankruptcy Code are therefore satisfied.

62. **Principal Purpose (11 U.S.C. § 1129(d)).** Mr. Seery testified that the principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on any such grounds. Accordingly, section 1129(d) of the Bankruptcy Code is inapplicable.

63. **Satisfaction of Confirmation Requirements.** Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code and should be confirmed.

64. **Good Faith Solicitation (11 U.S.C. § 1125(e)).** The Debtor, the Independent Directors, and the Debtor's employees, advisors, Professionals, and agents have acted in good faith within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the solicitation of acceptances of the Plan and their participation in the activities described in section 1125 of the Bankruptcy Code, and they are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

65. **Discharge (11 U.S.C. § 1141(d)(3)).** The Debtor is entitled to a discharge of debts pursuant to section 1141(d)(3)(B) of the Bankruptcy Code. Under the Plan, the Claimant Trust or Reorganized Debtor, as applicable, will continue to manage funds and conduct business

in the same manner as the Debtor did prior to Plan confirmation, which includes the management of the CLOs, Multi-Strat, Restoration Capital, the Select Fund and the Korea Fund. Although the Plan projects that it will take approximately two years to monetize the Debtor's assets for fair value, Mr. Seery testified that while the Reorganized Debtor and Claimant Trust will be monetizing their assets, there is no specified time frame by which this process must conclude. Mr. Seery's credible testimony demonstrates that the Debtor will continue to engage in business after consummation of the Plan, within the meaning of Section 1141(d)(3)(b) and that the Debtor is entitled to a discharge pursuant to section 1141(d)(1) of the Bankruptcy Code.

66. **Retention of Jurisdiction.** The Bankruptcy Court may properly retain jurisdiction over the matters set forth in Article XI of the Plan and/or section 1142 of the Bankruptcy Code to the maximum extent under applicable law.

67. **Additional Plan Provisions (11 U.S.C. § 1123(b)).** The Plan's provisions are appropriate, in the best interests of the Debtor and its Estate, and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

68. **Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)).** The Debtor has exercised reasonable business judgment with respect to the rejection of the Executory Contracts and Unexpired Leases pursuant the terms of the Plan and this Confirmation Order, and such rejections are justified and appropriate in this Chapter 11 Case. The Debtor also filed the List of Assumed Contracts, which contain notices to the applicable counterparties to the contracts set forth on Exhibit "FF" to Plan Supplement filed on February 1, 2021 [Docket No. 1875] and which exhibit sets forth the list of executory contracts and unexpired leases to be

assumed by the Debtor pursuant to the Plan (collectively, the “Assumed Contracts”). With respect to the Assumed Contracts, only one party objected to the assumption of any of the Assumed Contracts, but that objection was withdrawn.<sup>8</sup> Any modifications, amendments, supplements, and restatements to the Assumed Contracts that may have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of any Assumed Contract pursuant to the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption.

**69. Compromises and Settlements Under and in Connection with the Plan (11 U.S.C. § 1123(b)(3)).** All of the settlements and compromises pursuant to and in connection with the Plan, comply with the requirements of section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

**70. Debtor Release, Exculpation and Injunctions (11 U.S.C. § 1123(b)).** The Debtor Release, Exculpation, and Injunction provisions provided in the Plan (i) are within the jurisdiction of the Bankruptcy Court under 28 U.S.C. § 1334; (ii) are integral elements of the transactions incorporated into the Plan, and inextricably bound with the other provisions of the Plan; (iii) confer material benefit on, and are in the best interests of, the Debtor, its Estate, and its

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<sup>8</sup> See Notice of Withdrawal of James Dondero’s Objection Debtor’s Proposed Assumption of Contracts and Cure Amounts Proposed in Connection Therewith [Docket No. 1876]

creditors; (iv) are fair, equitable, and reasonable; (v) are given and made after due notice and opportunity for hearing; (vi) satisfy the requirements of Bankruptcy Rule 9019; and (vii) are consistent with the Bankruptcy Code and other applicable law, and as set forth below.

71. **Debtor Release.** Section IX.D of the Plan provides for the Debtor's release of the Debtor's and Estate's claims against the Released Parties. Releases by a debtor are discretionary and can be provided by a debtor to persons who have provided consideration to the Debtor and its estate pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Contrary to the objections raised by Mr. Dondero and certain of the Dondero Related Entities, the Debtor Release is appropriately limited to release claims held by the Debtor and does not purport to release the claims held by the Claimant Trust, Litigation Sub-Trust, or other third parties. The Plan does not purport to release any claims held by third parties and the Bankruptcy Court finds that the Debtor Release is not a "disguised" release of any third party claims as asserted by certain objecting parties. The limited scope of the Debtor Release in the Plan was extensively negotiated with the Committee, particularly with the respect to the Debtor's conditional release of claims against employees, as identified in the Plan, and the Plan's conditions and terms of such releases. The Plan does not release (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual



fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The Debtor Release also contains conditions to such releases as set forth in Article X.D of the Plan with respect to employees (the “Release Conditions”). Until the an employee satisfies the Release Conditions or the Release Conditions otherwise terminate, any claims against such employee will be tolled so that if the Release Conditions are not met the Litigation Trustee may pursue claims against an employee at a later date. The evidence before the Bankruptcy Court, including, but not limited to Mr. Seery’s testimony, demonstrates that the Debtor is not aware of any claims against any of the Released Parties, that the Released Parties have been instrumental in assisting the Debtor’s efforts toward confirmation of the Plan and that, therefore, the releases are a *quid pro quo* for the Released Parties’ significant contributions to a highly complex and contentious restructuring. The Committee, whose members hold approximately \$200 million in claims against the Estate, is highly sophisticated and is represented by highly sophisticated professionals, and has actively and vigorously negotiated the terms of the Debtor Release, which was the subject of significant controversy at the Initial Disclosure Statement hearing held by the Bankruptcy Court on October 27, 2020.

72. **Exculpation.** Section IX.C of the Plan provides for the exculpation of certain Exculpated Parties to the extent provided therein (the “Exculpation Provision”). As explained below, the Exculpation Provision is appropriate under the unique circumstances of this litigious Chapter 11 Case and consistent with applicable Fifth Circuit precedent. First, with respect to the Independent Directors, their agents, and their advisors, including any employees acting at

their direction, the Bankruptcy Court finds and concludes that it has already exculpated these parties for acts other than willful misconduct and gross negligence pursuant to the January 9 Order. The January 9 Order was specifically agreed to by Mr. Dondero, who was in control of the Debtor up until entry of the January 9 Order. The January 9 Order was not appealed. In addition to the appointment of the Independent Directors in an already contentious and litigious case, the January 9 Order set the standard of care for the Independent Directors and specifically exculpated them for negligence. Mr. Seery and Mr. Dubel each testified that they had input into the contents of the January 9 Order and would not have agreed to their appointment as Independent Directors if the January 9 Order did not include the protections set forth in paragraph 10 of the January 9 Order. Paragraph 10 of the January 9 Order (1) requires that parties wishing to sue the Independent Directors or their agents and advisors must first seek approval from the Bankruptcy Court before doing so; (2) sets the standard of care for the Independent Directors during the Chapter 11 Case and exculpated the Independent Directors for acts other than willful misconduct or gross negligence; (3) only permits suits against the Independent Directors to proceed for colorable claims of willful misconduct and gross negligence upon order of the Bankruptcy Court; and (4) does not expire by its terms.

73. **Existing Exculpation of Independent Directors.** The Bankruptcy Court also finds and concludes that it has already exculpated Mr. Seery acting in the capacity as Chief Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order. The Bankruptcy Court concludes its previous approval of the exculpation of the Independent Directors, their agents, advisors and employees working at their direction pursuant to the January 9 Order, and the Chief

Executive Officer and Chief Restructuring Officer pursuant to the July 16 Order constitutes the law of this case and are *res judicata* pursuant to *In re Republic Supply Co. v. Shoaf*, 815 F.2d 1046 (5th Cir.1987). The January 9 Order and July 16 Order cannot be collaterally attacked based on the objectors' objection to the exculpation of the Independent Directors, their agents, and advisors, including any employees acting at their direction, as well as the Chief Executive Officer and Chief Restructuring Officer, that the Bankruptcy Court already approved pursuant to the January 9 Order and the July 16 Order.

74. **The Exculpation Provision Complies with Applicable Law.** Separate and apart from the *res judicata* effect of the January 9 Order and the July 16 Order, the Bankruptcy Court also finds and concludes that the Exculpation Provision is consistent with applicable law, including *In re Pacific Lumber Co.*, 584 F.3d 229 (5th Cir. 2009), for several reasons:

- a. First, the statutory basis for *Pacific Lumber's* denial of exculpation for certain parties other than a creditors' committee and its members is that section 524(e) of the Bankruptcy Code "only releases the debtor, not co-liable third parties." *Pacific Lumber*, 253 F.3d. at 253. However, *Pacific Lumber* does not prohibit all exculpations under the Bankruptcy Code and the court in such case specifically approved the exculpations of a creditors' committee and its members on the grounds that "11 U.S.C. § 1103(c), which lists the creditors' committee's powers, implies committee members have qualified immunity for actions within the scope of their duties.... [I]f members of the committee can be sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case, it will be extremely difficult to find members to serve on an official committee." *Pacific Lumber*, 253 F.3d at 253 (quoting Lawrence P. King, et al, *Collier on Bankruptcy*, ¶ 1103.05[4][b] (15<sup>th</sup> Ed. 2008)). *Pacific Lumber's* rationale for permitted exculpation of creditors' committees and their members (which was clearly policy-based and based on a creditors' committee qualified immunity flowing from their duties under section 1103(c) of the Bankruptcy Code and their disinterestedness and importance in chapter 11 cases) does not preclude exculpation to other parties in a particular chapter 11 case that perform similar roles to a creditors' committee and its members. The Independent Directors, and by extension the Chief Executive Officer and Chief Restructuring Officer, were not

part of the Debtor's enterprise prior to their appointment by the Bankruptcy Court under the January 9 Order. The Bankruptcy Court appointed the Independent Directors in lieu of a chapter 11 trustee to address what the Bankruptcy Court perceived as serious conflicts of interest and fiduciary duty concerns with the then-existing management prior to January 9, 2020, as identified by the Committee. In addition, the Bankruptcy Court finds that the Independent Directors expected to be exculpated from claims of negligence, and would likely have been unwilling to serve in contentious cases absent exculpation. The uncontroverted testimony of Mr. Seery and Mr. Dubel demonstrates that the Independent Directors would not have agreed to accept their roles without the exculpation and gatekeeper provision in the January 9 Order. Mr. Dubel also testified as to the increasing important role that independent directors are playing in complex chapter 11 restructurings and that unless independent directors could be assured of exculpation for simple negligence in contentious bankruptcy cases they would be reluctant to accept appointment in chapter 11 cases which would adversely affect the chapter 11 restructuring process. The Bankruptcy Court concludes that the Independent Directors were appointed under the January 9 Order in order to avoid the appointment of a chapter 11 trustee and are analogous to a creditors' committee rather than an incumbent board of directors. The Bankruptcy Court also concludes that if independent directors cannot be assured of exculpation for simple negligence in contentious bankruptcy cases, they may not be willing to serve in that capacity. Based upon the foregoing, the Bankruptcy Court concludes that *Pacific Lumber's* policy of exculpating creditors' committees and their members from "being sued by persons unhappy with the committee's performance during the case or unhappy with the outcome of the case" is applicable to the Independent Directors in this Chapter 11 Case.<sup>9</sup>

- b. Second, the Bankruptcy Court also concludes that *Pacific Lumber* does not preclude the exculpation of parties if there is a showing that "costs [that] the released parties might incur defending against such suits alleging such negligence are likely to swamp either the Exculpated Parties or the reorganization." *Pacific Lumber*, 584 F.3d at 252. If ever there was a risk of that happening in a chapter 11 reorganization, it is this one. Mr. Seery credibly testified that Mr. Dondero stated outside the courtroom that if Mr. Dondero's pot plan does not get approved, that Mr. Dondero will "burn the place down." The Bankruptcy Court can easily expect that the proposed Exculpated Parties might expect to incur costs that could swamp them and the reorganization based on the prior litigious conduct of Mr. Dondero and his controlled entities that justify their inclusion in the Exculpation Provision.

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<sup>9</sup> The same reasoning applies to the inclusion of Strand in the Exculpation Provision because Strand is the general partner of the Debtor through which each of the Independent Board members act.

75. **Injunction.** Section IX.D of the Plan provides for a Plan injunction to implement and enforce the Plan’s release, discharge and release provisions (the “Injunction Provision”). The Injunction Provision is necessary to implement the provisions in the Plan. Mr. Seery testified that the Claimant Trustee will monetize the Debtor’s assets in order to maximize their value. In order to accomplish this goal, the Claimant Trustee needs to be able to pursue this objective without the interference and harassment of Mr. Dondero and his related entities, including the Dondero Related Entities. Mr. Seery also testified that if the Claimant Trust was subject to interference by Mr. Dondero, it would take additional time to monetize the Debtor’s assets and those assets could be monetized for less money to the detriment of the Debtor’s creditors. The Bankruptcy Court finds and concludes that the Injunction Provision is consistent with and permissible under Bankruptcy Code sections 1123(a), 1123(a)(6), 1141(a) and (c), and 1142. The Bankruptcy Court rejects assertions by certain objecting parties that the Injunction Provision constitutes a “third-party release.” The Injunction Provision is appropriate under the circumstances of this Chapter 11 Case and complies with applicable bankruptcy law. The Bankruptcy Court also concludes that the terms “implementation” and “consummation” are neither vague nor ambiguous

76. **Gatekeeper Provision.** Section IX.F of the Plan contains a provision contained in paragraph AA of this Confirmation Order and which the Debtor has referred to as a gatekeeper provision (the “Gatekeeper Provision”). The Gatekeeper Provision requires that Enjoined Parties first seek approval of the Bankruptcy Court before they may commence an action against Protected Parties. Thereafter, if the Bankruptcy Court determines that the action is

colorable, the Bankruptcy Court may, if it has jurisdiction, adjudicate the action. The Bankruptcy Court finds that the inclusion of the Gatekeeper Provision is critical to the effective and efficient administration, implementation, and consummation of the Plan. The Bankruptcy Court also concludes that the Bankruptcy Court has the statutory authority as set forth below to approve the Gatekeeper Provision.

77. **Factual Support for Gatekeeper Provision.** The facts supporting the need for the Gatekeeper Provision are as follows. As discussed earlier in this Confirmation Order, prior to the commencement of the Debtor's bankruptcy case, and while under the direction of Mr. Dondero, the Debtor had been involved in a myriad of litigation, some of which had gone on for years and, in some cases, over a decade. Substantially all of the creditors in this case are either parties who were engaged in litigation with the Debtor, parties who represented the Debtor in connection with such litigation and had not been paid, or trade creditors who provided litigation-related services to the Debtor. During the last several months, Mr. Dondero and the Dondero Related Entities have harassed the Debtor, which has resulted in further substantial, costly, and time-consuming litigation for the Debtor. Such litigation includes: (i) entry of a temporary restraining order and preliminary injunction against Mr. Dondero [Adv. Proc. No. 20-03190 Docket No. 10 and 59] because of, among other things, his harassment of Mr. Seery and employees and interference with the Debtor's business operations; (ii) a contempt motion against Mr. Dondero for violation of the temporary restraining order, which motion is still pending before the Bankruptcy Court [Adv. Proc. No. 20-03190 Docket No. 48]; (iii) a motion by Mr. Dondero's controlled investors in certain CLOs managed by the Debtor that the Bankruptcy Court referred to

as frivolous and a waste of the Bankruptcy Court's time [Docket No. 1528] which was denied by the Court [Docket No. 1605]; (iv) multiple plan confirmation objections focused on ensuring the Dondero Related Entities be able to continue their litigation against the Debtor and its successors post-confirmation [Docket Nos. 1661, 1667, 1670, 1673, 1676, 1677 and 1868]; (v) objections to the approval of the Debtor's settlements with Acis and HarbourVest and subsequent appeals of the Bankruptcy Court's order approving each of those settlements [Docket Nos. 1347 and 1870]; and (vi) a complaint and injunction sought against Mr. Dondero's affiliated entities to prevent them from violating the January 9 Order and entry of a restraining order against those entities [Adv Proc. No. 21-03000 Docket No 1] (collectively, the "Dondero Post-Petition Litigation").

78. **Findings Regarding Dondero Post-Petition Litigation.** The Bankruptcy Court finds that the Dondero Post-Petition Litigation was a result of Mr. Dondero failing to obtain creditor support for his plan proposal and consistent with his comments, as set forth in Mr. Seery's credible testimony, that if Mr. Dondero's plan proposal was not accepted, he would "burn down the place." The Bankruptcy Court concludes that without appropriate protections in place, in the form of the Gatekeeper Provision, Mr. Dondero and his related entities will likely commence litigation against the Protected Parties after the Effective Date and do so in jurisdictions other than the Bankruptcy Court in an effort to obtain a forum which Mr. Dondero perceives will be more hospitable to his claims. The Bankruptcy Court also finds, based upon Mr. Seery's testimony, that the threat of continued litigation by Mr. Dondero and his related entities after the Effective Date will impede efforts by the Claimant Trust to monetize assets for the benefit of creditors and result



in lower distributions to creditors because of costs and distraction such litigation or the threats of such litigation would cause.

79. **Necessity of Gatekeeper Provision.** The Bankruptcy Court further finds that unless the Bankruptcy Court approves the Gatekeeper Provision, the Claimant Trustee and the Claimant Trust Oversight Board will not be able to obtain D&O insurance, the absence of which will present unacceptable risks to parties currently willing to serve in such roles. The Bankruptcy Court heard testimony from Mark Tauber, a Vice President with AON Financial Services, the Debtor's insurance broker ("AON"), regarding his efforts to obtain D&O insurance. Mr. Tauber credibly testified that of all the insurance carriers that AON approached to provide D&O insurance coverage after the Effective Date, the only one willing to do so without an exclusion for claims asserted by Mr. Dondero and his affiliates otherwise requires that this Order approve the Gatekeeper Provision. Based on the foregoing, the Bankruptcy Court finds that the Gatekeeper Provision is necessary and appropriate in light of the history of the continued litigiousness of Mr. Dondero and his related entities in this Chapter 11 Case and necessary to the effective and efficient administration, implementation and consummation of the Plan and is appropriate pursuant to *Carroll v. Abide (In re Carroll)* 850 F.3d 811 (5th Cir. 2017). Approval of the Gatekeeper Provision will prevent baseless litigation designed merely to harass the post-confirmation entities charged with monetizing the Debtor's assets for the benefit of its economic constituents, will avoid abuse of the court system and preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. Any suit against a Protected Party would effectively be a suit against the Debtor, and the Debtor may be required to indemnify the Protected

Parties under the Limited Partnership Agreement, which will remain in effect through the Effective Date, or those certain *Indemnification and Guaranty Agreements*, dated January 9, 2020, between Strand, the Debtor, and each Independent Director, following the Confirmation Date as each such agreement will be assumed pursuant to 11 U.S.C. § 365 pursuant to the Plan.

80. **Statutory Authority to Approve Gatekeeper Provision.** The Bankruptcy Court finds it has the statutory authority to approve the Gatekeeper Provision under sections 1123(a)(5), 1123(b)(6), 1141, 1142(b), and 105(a). The Gatekeeper Provision is also within the spirit of the Supreme Court’s “Barton Doctrine.” *Barton v. Barbour*, 104 U.S. 126 (1881). The Gatekeeper Provision is also consistent with the notion of a prefiling injunction to deter vexatious litigants, that has been approved by the Fifth Circuit in such cases as *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 189 (5th Cir. 2008), and *In re Carroll*, 850 F.3d 811 (5<sup>th</sup> Cir. 2017).

81. **Jurisdiction to Implement Gatekeeper Provision.** The Bankruptcy Court finds that it will have jurisdiction after the Effective Date to implement the Gatekeeper Provision as post-confirmation bankruptcy court jurisdiction has been interpreted by the Fifth Circuit under *United States Brass Corp. v. Travelers Ins. Group, Inc. (In re United States Brass Corp.)*, 301 F.3d 296 (5<sup>th</sup> Cir. 2002) and *EOP-Colonnade of Dallas Ltd. P’Ship v. Faulkner (In re Stonebridge Techs., Inc.)*, 430 F.3d 260 (5<sup>th</sup> Cir. 2005). Based upon the rationale of the Fifth Circuit in *Villegas v. Schmidt*, 788 F.3d 156, 158-59 (5th Cir. 2015), the Bankruptcy Court’s jurisdiction to act as a gatekeeper does not violate *Stern v. Marshall*. The Bankruptcy Court’s determination of whether

a claim is colorable, which the Bankruptcy Court has jurisdiction to determine, is distinct from whether the Bankruptcy Court would have jurisdiction to adjudicate any claim it finds colorable.

82. **Resolution of Objections of Scott Ellington and Isaac Leventon.** Each of Scott Ellington (“Mr. Ellington”) and Isaac Leventon (“Mr. Leventon”) (each, a “Senior Employee Claimant”) has asserted certain claims for liquidated but unpaid bonus amounts for the following periods: 2016, 2017, and 2018, as set forth in Exhibit A to that certain *Senior Employees’ Limited Objection to Debtor’s Fifth Amended Plan of Reorganization* [Docket No. 1669] (the “Senior Employees’ Objection”) (for each of Mr. Ellington and Mr. Leventon, the “Liquidated Bonus Claims”).

- a. Mr. Ellington has asserted Liquidated Bonus Claims in the aggregate amount of \$1,367,197.00, and Mr. Leventon has asserted Liquidated Bonus Claims in the aggregate amount of \$598,198.00. Mr. Ellington received two Ballots<sup>10</sup> – a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Ellington completed and timely returned both of such Ballots, voted to reject the Plan, and elected to have his Class 8 Liquidated Bonus Claims treated under Class 7 of the Plan, subject to the objections and reservations of rights set forth in the Senior Employees’ Objection. If Mr. Ellington is permitted to elect Class 7 treatment for his Liquidated Bonus Claims, then the maximum amount of his Liquidated Bonus Claims will be \$1,000,000.
- b. Mr. Leventon received two Ballots—a Ballot for Class 7 of the Plan and a Ballot for Class 8 of the Plan. Mr. Leventon completed and timely returned both of such Ballots and voted each such Ballots to rejected the Plan.
- c. The Senior Employees’ Objection, among other things, objects to the Plan on the grounds that the Debtor improperly disputes the right of Mr. Ellington to elect Class 7 treatment for his Liquidated Bonus Claims and Mr. Leventon’s entitlement to receive Class 7 Convenience Class treatment for his Liquidated Bonus Claims. The Debtor contended that neither Mr. Ellington or Mr. Leventon were entitled to elect to receive Class 7 Convenience Class treatment on account of their Liquidated

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<sup>10</sup> As defined in the Plan, “Ballot” means the forms(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

Bonus Claims under the terms of the Plan, the Disclosure Statement Order or applicable law.

- d. The Debtor and Mr. Ellington and Mr. Leventon negotiated at arms' length in an effort to resolve all issues raised in the Senior Employee's Objection, including whether or not Mr. Ellington and Mr. Leventon were entitled to Class 7 Convenience Class treatment of their Liquidated Bonus Claims. As a result of such negotiation, the Debtor, Mr. Ellington, and Mr. Leventon have agreed to the settlement described in paragraphs 82(e) through 82(k) below and approved and effectuated pursuant to decretal paragraphs RR through SS (the "Senior Employees' Settlement").
- e. Under the terms of the Senior Employees' Settlement, the Debtor has the right to elect one of two treatments of the Liquidated Bonus Claims for a Senior Employee Claimant. Under the first treatment option ("Option A"), the Liquidated Bonus Claims will be entitled to be treated in Class 7 of the Plan, and the Liquidated Bonus Claims will be entitled to receive payment in an amount equal to 70.125% of the Class 7 amount of the Liquidated Bonus Claims, subject to the Liquidated Bonus Claims becoming Allowed Claims under the terms of the Plan. Under this calculation, Mr. Ellington would be entitled to receive \$701,250.00 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan, and Mr. Leventon would be entitled to receive \$413,175.10 on account of his Class 7 Convenience Class Claim when and as Allowed under the Plan. If, however, any party in interest objects to the allowance of the Senior Employee Claimant's Liquidated Bonus Claims and does not prevail in such objection, then such Senior Employee Claimant will be entitled to a payment in an amount equal to 85% of his Allowed Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed on Class 7 Claims). In addition, under Option A, each of Mr. Ellington and Mr. Leventon would retain their respective rights to assert that the Liquidated Bonus Claims are entitled to be treated as Administrative Expense Claims, as defined in Article I.B.2. of the Plan, in which case the holder of such Liquidated Bonus Claims would be entitled to payment in full of the Allowed Liquidated Bonus Claims. Under Option A, parties in interest would retain the right to object to any motion seeking payment of the Liquidated Bonus Amounts as Administrative Expenses.
- f. Under the second treatment option ("Option B"), the Debtor would agree that the Senior Employee Claimant has Allowed Liquidated Bonus Claims, no longer subject to objection by any party in interest, in the amounts of the Liquidated Bonus Claims (subject, in the case of Mr. Ellington, to the cap imposed by Class 7). If the Debtor elects Option B as to a Senior Employee Claimant, then such Senior Employee Claimant would be entitled to a payment on account of his Allowed Liquidated Bonus Claims in an amount equal to 60% of the amount of the

Liquidated Bonus Claims (which, in Mr. Ellington's case, would be \$600,000 and in Mr. Leventon's case, would be \$358,918.80), and such payment would be the sole recovery on account of such Allowed Liquidated Bonus Claims.

- g. The Debtor may, with the consent of the Committee, elect Option B with respect to a Senior Employee Claimant at any time prior to the occurrence of the Effective Date. If the Debtor does not make an election, then Option A will apply.
- h. Under either Option A or Option B, Mr. Ellington and Mr. Leventon will retain all their rights with respect to all Claims other than the Liquidated Bonus Amounts, including, but not limited to, their Class 6 PTO Claims, other claims asserted as Class 8 General Unsecured Claims, the Senior Employees' claims for indemnification against the Debtor, and any other claims that they may assert constitute Administrative Expense Claims, and any other such Claims are subject to the rights of any party in interest to object to such Claims, and the Debtor reserves any all of its rights and defenses in connection therewith.
- i. Subject to entry of this Confirmation Order and as set forth and announced on the record at the hearing on confirmation of the Plan and no party objecting thereto, Mr. Ellington and Mr. Leventon agreed to change the votes in their respective Ballots from rejection to acceptance of the Plan and to withdraw the Senior Employees' Objection.
- j. The Senior Employees' Settlement represents a valid exercise of the Debtor's business judgment and satisfies the requirements for a compromise under Bankruptcy Rule 9019(a).
- k. For the avoidance of doubt, neither Mr. Leventon nor Mr. Ellington shall be a Released Party under the Plan regardless of how the Senior Employee Claimants' Claims are to be treated hereunder.

Based upon the foregoing findings, and upon the record made before the Bankruptcy Court at the Confirmation Hearing, and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**A. Confirmation of the Plan.** The Plan is approved in its entirety and **CONFIRMED** under section 1129 of the Bankruptcy Code. The terms of the Plan, including the

Plan Supplements and Plan Modifications, are incorporated by reference into and are an integral part of this Confirmation Order.<sup>11</sup>

**B. Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law set forth in this Confirmation Order and on the record of the Confirmation Hearing constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusion of law announced by the Bankruptcy Court at the Confirmation Hearing in relation to confirmation of the Plan are hereby incorporated into this Confirmation Order. To the extent that any of the following constitutes findings of fact or conclusions of law, they are adopted as such. To the extent any findings of fact or conclusions of law set forth in this Confirmation Order (including any findings of fact or conclusions of law announced by the Bankruptcy Court at the Confirmation Hearing and incorporated herein) constitutes an order of the Bankruptcy Court, and is adopted as such.

**C. Objections.** Any resolution or disposition of objections to confirmation of the Plan or otherwise ruled upon by the Bankruptcy Court on the record of the Confirmation Hearing is hereby incorporated by reference. All objections and all reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or settled are overruled on the merits, except as otherwise specifically provided in this Confirmation Order.

**D. Plan Supplements and Plan Modifications.** The filing with the Bankruptcy Court of the Plan Supplements and the Plan Modifications constitutes due and

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<sup>11</sup> The Plan is attached hereto as Exhibit A.

sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Plan Modifications and the Plan Supplements do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims or Equity Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan. The Plan Modifications and the Plan Supplements constitute the Plan pursuant to section 1127(a) of the Bankruptcy Code. Accordingly, the Plan, as modified, is properly before the Bankruptcy Court and all votes cast with respect to the Plan prior to such modification shall be binding and shall apply with respect to the Plan.

**E. Deemed Acceptance of Plan.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims and Equity Interests who voted to accept the Plan (or whom are conclusively presumed to accept the Plan) are deemed to have accepted the Plan as modified by the Plan Modifications. No holder of a Claim shall be permitted to change its vote as a consequence of the Plan Modifications.

**F. Vesting of Assets in the Reorganized Debtor.** Except as otherwise provided in the Plan or this Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code, except with respect to such Liens, Claims, charges, and other encumbrances that are specifically preserved under the Plan upon the Effective Date. The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the



representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

**G. Effectiveness of All Actions.** All actions contemplated by the Plan, including all actions in connection with the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, are authorized to be taken on, prior to, or after the Effective Date, as applicable, under this Confirmation Order, without further application to or order of the Bankruptcy Court, or further action by the directors, managers, officers or partners of the Debtor or the Reorganized Debtor and with the effect that such actions had been taken by unanimous action of such parties.

**H. Restructuring Transactions.** The Debtor or Reorganized Debtor, as applicable, are authorized to enter into and effectuate the Restructuring provided under the Plan, including, without limitation, the entry into and consummation of the transactions contemplated by the Claimant Trust Agreement, the Senior Employee Stipulation, the New GP LLC Documents, the New Frontier Note, the Reorganized Limited Partnership Agreement, the Litigation Sub-Trust Agreement, and the other Plan Documents, and may take any actions as may be necessary or appropriate to effect a corporate restructuring of its business or a corporate restructuring of the overall corporate structure of the Reorganized Debtor, as and to the extent provided in the Plan. Any transfers of assets or equity interests effected or any obligations incurred through the Restructuring pursuant to the Plan are hereby approved and shall not constitute fraudulent conveyances or fraudulent transfers or otherwise be subject to avoidance.

**I. Preservation of Causes of Action.** Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, this Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor, the Litigation Sub-Trust, or the Claimant Trust, as applicable (including, without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of the Plan based on the Disclosure Statement, the Plan, or this Confirmation Order, except where such Causes of Action have been expressly released in the Plan or any other Final Order (including, without limitation, this Confirmation Order). In addition, the right of the Reorganized Debtor, the Claimant Trust, or the Litigation Sub-Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**J. Independent Board of Directors of Strand.** The terms of the current Independent Directors shall expire on the Effective Date without the need for any further or other action by any of the Independent Directors. For avoidance of doubt, the Assumed Contracts

include the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and James Seery*; the *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and John Dubel* and *Indemnification and Guaranty Agreement between Highland Capital Management, Strand Advisors, Inc. and Russell Nelms* and shall each remain in full force and effect notwithstanding the expiration of the terms of any Independent Directors.

**K. Cancellation of Equity Interests and Issuance of New Partnership**

**Interests.** On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be deemed cancelled, and all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, such Class A Limited Partnership Interests and Class B/C Limited Partnership Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement. As of the Effective Date and pursuant to the Plan, new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited

Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

**L. Transfer of Assets to Claimant Trust.** On or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax. Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to the Plan and the Claimant Trust Agreement.

**M. Transfer of Estate Claims to Litigation Sub-Trust.** On or prior to the Effective Date, the Claimant Trust shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Litigation Sub-Trust all of the Claimant Trust's rights, title, and interest in and to all of the Estate Claims as successor in interest to the Debtor, and in accordance with section 1141 of the Bankruptcy Code, the Estate Claims shall automatically vest in the Litigation Sub-Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Litigation Sub-Trust Interests and Litigation Sub-Trust Expenses. The Litigation Trustee will

be authorized to investigate, pursue, and otherwise resolve the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan, including as successor in interest to the Debtor or Committee, as applicable, in any litigation commenced prior to the Effective Date in which Estate Claims are asserted.

**N. Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests, and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

**O. Objections to Claims.** The Claims Objection Deadline shall be the date that is 180 days after the Effective Date, *provided, however*, that the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee and as otherwise provided under the Plan.

**P. Assumption of Contracts and Leases.** Effective as of the date of this Confirmation Order, each of the Assumed Contracts shall be assumed by the Debtor without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code and the payment of Cures, if any, shall be paid in accordance with the Plan. Each Assumed Contract shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to any of the

Assumed Contracts that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of such Assumed Contracts or the validity, priority, or amount of any Claims that may arise in connection therewith. Assumption of the Assumed Contracts pursuant to Article V.A of the Plan and full payment of any applicable Cure pursuant to the Plan shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition, or other bankruptcy-related defaults, arising under any Assumed Contracts.

**Q. Rejection of Contracts and Leases.** Unless previously assumed during the pendency of the Chapter 11 Case or pursuant to the Plan, all other Executory Contracts and Unexpired Leases are rejected as of the date of the entry of this Confirmation Order and pursuant to the terms of the Plan. To the extent that any party asserts any damages resulting from the rejection of any Executory Contract or Unexpired Lease, such claim must be filed within **thirty (30) days** following entry of this Confirmation Order, or such claim will be forever barred and disallowed against the Reorganized Debtor.

**R. Assumption of Issuer Executory Contracts.** On the Confirmation Date, the Debtor will assume the agreements set forth on **Exhibit B** hereto (collectively, the “Issuer Executory Contracts”) pursuant to section 365 of the Bankruptcy Code and Article V of the Plan. In full and complete satisfaction of its obligation to cure outstanding defaults under section 365(b)(1) of the Bankruptcy Code, the Debtor or, as applicable, any successor manager under the

Issuer Executory Contracts (collectively, the “Portfolio Manager”) will pay to the Issuers<sup>12</sup> a cumulative amount of \$525,000 (the “Cure Amount”) as follows:

- a. \$200,000 in cash on the date that is five business days from the Effective Date, with such payment paid directly to Schulte Roth & Zabel LLP (“SRZ”) in the amount of \$85,714.29, Jones Walker LLP (“JW”) in the amount of \$72,380.95, and Maples Group (“Maples” and collectively with SRZ and JW, the “Issuers’ Counsel”) in the amount of \$41,904.76 as reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case; and
- b. \$325,000 in four equal quarterly payments of \$81,250.00 (each, a “Payment”), which amounts shall be paid to SRZ in the amount of \$34,821.43, JW in the amount of \$29,404.76, and Maples in the amount of \$17,023.81 as additional reimbursement for the attorney’s fees and other legal expenses incurred by the Issuers in connection with the Debtor’s bankruptcy case (i) from any management fees actually paid to the Portfolio Manager under the Issuer Executory Contracts (the “Management Fees”), and (ii) on the date(s) Management Fees are required to be paid under the Issuer Executory Contracts (the “Payment Dates”), and such obligation shall be considered an irrevocable direction from the Debtor and the Bankruptcy Court to the relevant CLO Trustee to pay, on each Payment Date, the Payment to Issuers’ Counsel, allocated in the proportion set forth in such agreement; *provided, however*, that (x) if the Management Fees are insufficient to make any Payment in full on a Payment Date, such shortfall, in addition to any other amounts due hereunder, shall be paid out of the Management Fees owed on the following Payment Date, and (y) nothing herein shall limit either Debtor’s liability to pay the amounts set forth herein, nor the recourse of the Issuers or Issuers’ Counsel to the Debtor, in the event of any failure to make any Payment.

**S. Release of Issuer Claims.** Effective as of the Confirmation Date, and to the maximum extent permitted by law, each Issuer on behalf of itself and each of its current and former advisors, trustees, directors, officers, managers, members, partners, employees, beneficiaries, shareholders, agents, participants, subsidiaries, parents, successors, designees, and

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<sup>12</sup> The “Issuers” are: Brentwood CLO, Ltd., Gleneagles CLO, Ltd., Greenbriar CLO, Ltd., Highland CLO 2018-1, Ltd., Highland Legacy Limited, Highland Loan Funding V Ltd., Highland Park CDO I, Ltd., Pam Capital Funding LP, Rockwall CDO II Ltd., Rockwall CDO Ltd., Southfork CLO Ltd., Stratford CLO Ltd., Westchester CLO, Ltd., Aberdeen Loan Funding, Ltd., Eastland CLO, Ltd., Grayson CLO, Ltd., Highland Credit Opportunities CDO Ltd., Jasper CLO, Ltd., Liberty Cayman Holdings, Ltd., Liberty CLO, Ltd., Red River CLO, Ltd., Valhalla CLO, Ltd.



assigns hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue, (i) the Debtor and (ii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, the Independent Directors, the CEO/CRO, and with respect to the Persons listed in this subsection (ii), such Person's Related Persons (collectively, the "Debtor Released Parties"), for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney's fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, including, without limitation, those which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the "Issuer Released Claims").

**T. Release of Debtor Claims against Issuer Released Parties.** Upon entry of this Order, and to the maximum extent permitted by law, the Debtor hereby forever, finally, fully, unconditionally, and completely releases, relieves, acquits, remises, and exonerates, and covenants never to sue [(i) each Issuer and (ii) Wendy Ebanks, (iii) Yun Zheng, (iv) Laura Chisholm, (v) Mora Goddard, (vi) Stacy Bodden, (vii) Suzan Merren (viii) Scott Dakers, (ix) Samit Ghosh, (x) Inderjit Singh, (xi) Ellen Christian, (xii) Andrew Dean, (xiii) Betsy Mortel, (xiv) David Hogan, (xv) Cleveland Stewart, (xvi) Rachael Rankin, (xvii) Otelia Scott, (xviii) Martin Couch, (xx) Feronia Bartley-Davis, (xxi) Charlotte Cloete, (xxii) Christina McLean, (xxiii) Karen Ellerbe,

(xxiv) Gennie Kay Bigord, (xxv) Evert Brunekreef, (xxvii) Evan Charles Burtton (collectively, the “Issuer Released Parties”),] for and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, liens, losses, costs and expenses (including, without limitation, attorney’s fees and related costs), damages, injuries, suits, actions, and causes of action of whatever kind or nature, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, contingent or fixed, at law or in equity, statutory or otherwise, including, without limitation, any claims, defenses, and affirmative defenses, whether known or unknown, which were or could have been asserted in, in connection with, or with respect to the Bankruptcy Case (collectively, the “Debtor Released Claims”); *provided, however*, that notwithstanding anything herein to the contrary, the release contained herein will apply to the Issuer Released Parties set forth in subsection (ii) above only with respect to Debtor Released Claims arising from or relating to the Issuer Executory Contracts. Notwithstanding anything in this Order to the contrary, the releases set forth in paragraphs S and T hereof will not apply with respect to the duties, rights, or obligations of the Debtor or any Issuer hereunder.

**U. Authorization to Consummate.** The Debtor is authorized to consummate the Plan after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date of the Plan set forth in Article VIII.A of the Plan. The Plan shall not become effective unless and until the conditions set forth in Article VIII.A of the Plan have been satisfied, or otherwise waived pursuant to Article VIII.B of the Plan.

**V. Professional Compensation.** All requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date

must be filed no **later than sixty (60) days after the Effective Date**. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and an opportunity for hearing in accordance with the procedures established by the Bankruptcy Code and the Bankruptcy Court. The Debtor shall fund the Professional Fee Reserve as provided under the Plan. The Reorganized Debtor shall pay Professional Fee Claims in Cash in the amounts the Bankruptcy Court allows. The Debtor is authorized to pay the pre-Effective Date fees and expenses of all ordinary course professionals in the ordinary course of business without the need for further Bankruptcy Court order or approval. From and after the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 (if applicable) of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor or Claimant Trustee, as applicable, may employ and pay any Professional or Entity employed in the ordinary course of the Debtor's business without any further notice to or action, order, or approval of the Bankruptcy Court.

**W. Release, Exculpation, Discharge, and Injunction Provisions.** The following release, exculpation, discharge, and injunction provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all parties and Entities to the extent provided therein.

**X. Discharge of Claims and Termination of Interests.** To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement,

discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**Y. Exculpation.** Subject in all respects to Article XII.D of the Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(v);

*provided, however,* the foregoing will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. The Plan's exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of the Plan, including Article IV.C.2 of the Plan, protecting such Exculpated Parties from liability.

**Z. Releases by the Debtor.** On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person. Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under

any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

**AA. Injunction.** Upon entry of this Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan. Except as expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner,

**in any place whatsoever, that does not conform to or comply with the provisions of the Plan. The injunctions set forth in the Plan and this Confirmation Order shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property. Subject in all respects to Article XII.D of the Plan, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court (i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in**



**Article XI of the Plan, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.**

**BB. Duration of Injunction and Stays.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date, shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Bankruptcy Court will enter an equivalent order under Section 105.

**CC. Continuance of January 9 Order and July 16 Order.** Unless otherwise provided in the Plan, in this Confirmation Order, or in a Final Order of the Bankruptcy Court, each of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [Docket No. 339] and *Order Approving the Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] entered on July 16, 2020 shall remain in full force and effect from the Confirmation Date and following the Effective Date.

**DD. No Governmental Releases.** Nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or

any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against any party or person, nor shall anything in this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action, or other proceedings against any party or person for any liability of such persons whatever, including without limitation any claim, suit, or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against such persons, nor shall anything in this Confirmation Order or the Plan exculpate any party or person from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws, or any criminal laws of the United States or any state and local authority against any party or person.

**EE. Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other Person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtor or the Reorganized Debtor; (b) the Restructuring transactions pursuant to the Plan; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,

including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment to the fullest extent contemplated by section 1146(a) of the Bankruptcy Code, and upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation of any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**FF. Cancellation of Notes, Certificates and Instruments.** Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan or as otherwise provided in this Confirmation Order, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the

Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person.

**GG. Documents, Mortgages, and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, including the Restructuring transactions contemplated under the Plan, and this Confirmation Order.

**HH. Post-Confirmation Modifications.** Subject section 1127(b) of the Bankruptcy Code and the Plan, the Debtor and the Reorganized Debtor expressly reserve their rights to revoke or withdraw, or to alter, amend, or modify materially the Plan, one or more times after Confirmation and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XII.B of the Plan.

**II. Applicable Nonbankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**JJ. Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state,

federal, or other governmental authority with respect to the dissemination, implementation, or consummation of the Plan and the Disclosure Statement, any certifications, documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

**KK. Notice of Effective Date.** As soon as reasonably practicable after the Effective Date, the Reorganized Debtor shall file notice of the Effective Date and shall serve a copy of the same on all Holders of Claims and Equity Interests, and all parties who have filed with the Bankruptcy Court requests to receive notices in accordance with Bankruptcy Rules 2002 and 3020(c). Notwithstanding the above, no notice of Confirmation or Consummation or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtor mailed notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtor has been informed in writing by such Entity, or is otherwise aware, of that Entity’s new address. The above-referenced notices are adequate under the particular circumstances of this Chapter 11 Case and no other or further notice is necessary.

**LL. Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127 of the Bankruptcy Code.

**MM. Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Bankruptcy Court.

**NN. References to and Omissions of Plan Provisions.** References to articles, sections, and provisions of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan be confirmed in its entirety, except as expressly modified herein, and incorporated herein by this reference.

**OO. Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

**PP. Effect of Conflict.** This Confirmation Order supersedes any Bankruptcy Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there is any inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control. If there is any inconsistency between the terms of this Confirmation Order and the terms of a final, executed Plan Supplement Document, the terms of the final, executed Plan Supplement Document will govern and control.

**QQ. Resolution of Objection of Texas Taxing Authorities.** Dallas County, Kaufman County, City of Allen, Allen ISD and City of Richardson (collectively, the “Tax Authorities”) assert that they are the holders of prepetition and administrative expense claims for 2019, 2020 and 2021 ad valorem real and business personal property taxes. The ad valorem property taxes for tax year 2020 shall be paid in accordance with and to the extent required under

applicable nonbankruptcy law. In the event the 2020 taxes are paid after February 1, 2021, the Tax Authorities may assert any rights and amounts they claim are owed with respect to penalties and interest that have accrued through the date of payment and the Debtor and Reorganized Debtor reserve any all rights and defenses in connection therewith.

- a. The Debtor/Reorganized Debtor shall pay all amounts owed to the Tax Authorities for tax year 2021 in accordance with and to the extent required under applicable nonbankruptcy law. The Tax Authorities shall not be required to file and serve an administrative expense claim and request for payment as a condition of allowance of their administrative expense claims pursuant to 11 U.S.C. Section 503(b)(1)(D). With regard to year 2019 ad valorem property taxes, the Tax Authorities will receive payment of their prepetition claims within 30 days of the Effective Date of the Plan. The payment will include interest from the Petition Date through the Effective Date and from the Effective Date through payment in full at the state statutory rate pursuant to 11 U.S.C. Sections 506(b), 511, and 1129, if applicable, subject to all of the Debtor's and Reorganized Debtor's rights and defenses in connection therewith. Notwithstanding any other provision in the Plan, the Tax Authorities shall (i) retain the liens that secure all prepetition and postpetition amounts ultimately owed to them, if any, as well as (ii) the state law priority of those liens until the claims are paid in full.
- b. The Tax Authorities' prepetition claims and their administrative expense claims shall not be discharged until such time as the amounts owed are paid in full. In the event of a default asserted by the Taxing Authorities, the Tax Authorities shall provide notice Debtor or Reorganized Debtor, as applicable, and may demand cure of any such asserted default. Subject to all of its rights and defenses, the Debtor or Reorganized Debtor shall have fifteen (15) days from the date of the notice to cure the default. If the alleged default is not cured, the Tax Authorities may exercise any of their respective rights under applicable law and pursue collection of all amounts owed pursuant to state law outside of the Bankruptcy Court, subject in all respects to the Debtor's and Reorganized Debtor's applicable rights and defenses. The Debtor/Reorganized Debtor shall be entitled to any notices of default required under applicable nonbankruptcy law and each of the Taxing Authorities, the Debtor and the Reorganized Debtor reserve any and all of their respective rights and defenses in connection therewith. The Debtor's and Reorganized Debtor's rights and defenses under Texas Law and the Bankruptcy Code with respect to this provision of the Confirmation Order, including their right to dispute or object to the Tax Authorities' Claims and liens, are fully preserved.



**RR. Resolution of Objections of Scott Ellington and Isaac Leventon.**

Pursuant to Bankruptcy Rule 9019(a), the Senior Employees' Settlement is approved in all respects. The Debtor may, only with the consent of the Committee, elect Option B for a Senior Employee Claimant by written notice to such Senior Employee Claimant on or before the occurrence of the Effective Date. If the Debtor does not elect Option B, then Option A will govern the treatment of the Liquidated Bonus Claims.

- a. Notwithstanding any language in the Plan, the Disclosure Statement, or this Confirmation Order to the contrary, if Option A applies to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee Claimant will receive the treatment described in paragraph 82(e) hereof, and if the Debtor timely elects Option B with respect to the Liquidated Bonus Claims of a Senior Employee Claimant, then the Liquidated Bonus Claims of such Senior Employee will receive the treatment described in paragraph 82(f) hereof.
- b. The Senior Employees' Settlement is hereby approved, without prejudice to the respective rights of Mr. Ellington and Mr. Leventon to assert all their remaining Claims against the Debtor's estate, including, but not limited to, their Class 6 PTO Claims, their remaining Class 8 General Unsecured Claims, any indemnification claims, and any Administrative Expense Claims that they may assert and is without prejudice to the rights of any party in interest to object to any such Claims.
- c. Pursuant to Bankruptcy Rule 3018(a), Mr. Ellington and Mr. Leventon were permitted to change their votes on the Plan. Accordingly, Mr. Ellington's votes on his Ballots in Class 7 and Class 8 of the Plan were changed from a rejection of the Plan to acceptance of the Plan, and Mr. Leventon's votes on his Ballots in Class 7 and Class 8 of the Plan were, changed from rejections of the Plan to acceptances of the Plan.
- d. The Senior Employees' Objection is deemed withdrawn.

**SS. No Release of Claims Against Senior Employee Claimants.** For the avoidance of doubt, the Senior Employees' Settlement, as approved herein, shall not, and shall not be deemed to, release any Claims or Causes of Action held by the Debtor against either Senior

Employee Claimant nor shall either Senior Employee Claimant be, or be deemed to be, a “Released Party” under the Plan.

**TT. Resolution of Objection of Internal Revenue Service.** Notwithstanding any other provision or term of the Plan or Confirmation Order, the following Default Provision shall control as to the United States of America, Internal Revenue Service (“IRS”) and all of its claims, including any administrative claim (the “IRS Claim”):

(a) Notwithstanding any other provision in the Plan, if the Debtor, the Reorganized Debtor, or any successor in interest fails to pay when due any payment required to be made on federal taxes, the IRS Claim, or other payment required to be made to the IRS under the terms and provisions of this Plan, the Confirmation Order, or the Internal Revenue Code (26 U.S.C.), or fails to timely file any required federal tax return, or if any other event of default as set forth in the Plan occurs, the IRS shall be entitled to give the Debtor, the Reorganized Debtor and/or any successor in interest and their counsel of record, by United States Certified Mail, written notice of the failure and/or default with demand that it be cured, and if the failure and/or default is not cured within 14 days of the date of said notice and demand, then the following shall apply to the IRS:

(1) The administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal tax lien and the powers of levy, seizure, and collection as provided under the Internal Revenue Code;

(2) The automatic stay of 11 U.S.C. § 362 and any injunction of the Plan or in the Confirmation Order shall, with regard to the IRS only, lift or terminate without further notice or hearing by the Bankruptcy Court, and the entire prepetition liability owed to the IRS, together with any unpaid postpetition tax liabilities, may become due and payable immediately; and

(3) The IRS shall have the right to proceed to collect from the Debtor, the Reorganized Debtor or any successor in interest any of the prepetition tax liabilities and related penalties and interest through administrative or judicial collection procedures available under the United States Code as if no bankruptcy petition had been filed and as if no plan had been confirmed.

(b) If the IRS declares the Debtor, the Reorganized Debtor, or any successor-in-interest to be in default of the Debtor’s, the Reorganized Debtor’s and/ or any successor- in-interest’s obligations under the Plan, then entire prepetition liability of an IRS’ Allowed Claim, together with any unpaid postpetition tax liabilities shall become due and payable

immediately upon written demand to the Debtor, Reorganized Debtor and/or any successor-in-interest. Failure of the IRS to declare a failure and/or default does not constitute a waiver by the United States or its agency the IRS of the right to declare that the Debtor, Reorganized Debtor, and/or any successor in interest is in default.

(c) The IRS shall only be required to send two notices of failure and/or default, and upon the third event of a failure and/or default, the IRS shall be entitled to proceed as set out in paragraphs (1), (2), and/or (3) herein above without further notice to the Debtor, the Reorganized Debtor, or any successor in interest, or its counsel. The collection statute expiration date for all unpaid federal tax liabilities shall be extended pursuant to non-bankruptcy law.

(d) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor, the Reorganized Debtor, and/or any successor in interest to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor, the Reorganized Debtor and/or any successor in interest to the Internal Revenue Service.

(e) Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, causes of action, rights of setoff or recoupment, rights to appeal tax assessments, or other legal or equitable defenses that the Debtor or Reorganized Debtor have under non-bankruptcy law in connection with any claim, liability or cause of action of the United States and its agency the Internal Revenue Service.

(f) The term “any payment required to be made on federal taxes,” as used herein above, is defined as: any payment or deposit required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full. The term “any required tax return,” as used herein above, is defined as: any tax return or report required by the Internal Revenue Code to be made by the Debtor from and after the Confirmation Date, or the Reorganized Debtor and/or any successor in interest from and after the Effective Date, to the date the IRS Claim is together with interest paid in full.

**UU. IRS Proof of Claim.** Notwithstanding anything in the Plan or in this Confirmation Order, until all required tax returns are filed with and processed by the IRS, the IRS’s proof of claim will not be deemed fixed for purposes of Section 502 of the Bankruptcy Code and may be amended in order to reflect the IRS’ assessment of the Debtor’s unpaid priority and general unsecured taxes, penalties and interest.

**VV. CLO Holdco, Ltd. Settlement** Notwithstanding anything contained herein to the contrary, nothing in this Order is or is intended to supersede the rights and obligations of either the Debtor or CLO Holdco contained in that certain *Settlement Agreement between CLO Holdco, Ltd., and Highland Capital Management, L.P., dated January 25, 2021* [Docket No. 1838-1] (the “CLOH Settlement Agreement”). In the event of any conflict between the terms of this Order and the terms of the CLOH Settlement Agreement, the terms of the CLOH Settlement Agreement will govern.

**WW. Retention of Jurisdiction.** The Bankruptcy Court may properly, and upon the Effective Date shall, to the maximum extent permitted under applicable law, retain jurisdiction over all matters arising out of, and related to, this Chapter 11 Case, including the matters set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

**XX. Payment of Statutory Fees; Filing of Quarterly Reports.** All fees payable pursuant to 28 U.S.C. § 1930 shall be paid on or before the Effective Date. The Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust shall be jointly and severally liable for payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 through the entry of the Final Decree for the Debtor or the dismissal or conversion of the Chapter 11 Case. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to file any proofs of claim with respect to quarterly fees payable pursuant to 28 U.S.C. § 1930.

**YY. Dissolution of the Committee.** On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee’s Professionals will cease to have

any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). Notwithstanding the foregoing, any Committee member or Professional may serve following the Effective Date with respect to the Claimant Trust Oversight Board or Litigation Sub-Trust. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan, the Claimant Trust Agreement, and/or Litigation Sub-Trust in connection with such representation.

**ZZ. Miscellaneous.** After the Effective Date, the Debtor or Reorganized Debtor, as applicable, shall have no obligation to file with the Bankruptcy Court or serve on any parties reports that the Debtor or Reorganized Debtor, as applicable, were obligated to file under the Bankruptcy Code or a court order, including monthly operating reports (even for those periods for which a monthly operating report was not filed before the Effective Date), ordinary course professional reports, reports to any parties otherwise required under the "first" and "second" day orders entered in this Chapter 11 Case (including any cash collateral financing orders entered in this Chapter 11 Case) and monthly or quarterly reports for Professionals; *provided, however*, that

the Debtor or Reorganized Debtor, as applicable, will comply with the U.S. Trustee's post confirmation reporting requirements.

**###END OF ORDER###**

**Exhibit A**

**Fifth Amended Plan (as Modified)**



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

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

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**FIFTH AMENDED PLAN OF REORGANIZATION OF HIGHLAND  
CAPITAL MANAGEMENT, L.P. (AS MODIFIED)**

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Counsel for the Debtor and Debtor-in-Possession

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<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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**DEBTOR’S CHAPTER 11 PLAN OF REORGANIZATION**

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HIGHLAND CAPITAL MANAGEMENT, L.P., as debtor and debtor-in-possession in the above-captioned case (the “Debtor”), proposes the following chapter 11 plan of reorganization (the “Plan”) for, among other things, the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Unless otherwise noted, capitalized terms used in this Plan have the meanings set forth in Article I of this Plan. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code.

Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtor’s history, business, results of operations, historical financial information, projections and assets, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents that may be Filed with the Bankruptcy Court that are referenced in this Plan or the Disclosure Statement as Exhibits and Plan Documents. All such Exhibits and Plan Documents are incorporated into and are a part of this Plan as if set forth in full herein. Subject to the other provisions of this Plan, and in accordance with the requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Plan prior to the Effective Date.

If this Plan cannot be confirmed, for any reason, then subject to the terms set forth herein, this Plan may be revoked.

**ARTICLE I.**  
**RULES OF INTERPRETATION, COMPUTATION OF TIME,**  
**GOVERNING LAW AND DEFINED TERMS**

**A. Rules of Interpretation, Computation of Time and Governing Law**

For purposes hereof: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document, as previously amended, modified or supplemented, if applicable, shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented in accordance with its terms; (d) unless otherwise specified, all references herein to “Articles,” “Sections,” “Exhibits” and “Plan Documents” are references to Articles, Sections, Exhibits and Plan Documents hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) any reference to an Entity as a Holder of a Claim or Equity Interest includes such Entity’s successors and assigns; (h) the rules of construction set



forth in section 102 of the Bankruptcy Code shall apply; (i) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (j) “\$” or “dollars” means Dollars in lawful currency of the United States of America. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

**B. Defined Terms**

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Acis*” means collectively Acis Capital Management, L.P. and Acis Capital Management GP, LLP.

2. “*Administrative Expense Claim*” means any Claim for costs and expenses of administration of the Chapter 11 Case that is Allowed pursuant to sections 503(b), 507(a)(2), 507(b) or 1114(2) of the Bankruptcy Code, including, without limitation, (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; and (b) all fees and charges assessed against the Estate pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code, and that have not already been paid by the Debtor during the Chapter 11 Case and a Professional Fee Claim.

3. “*Administrative Expense Claims Bar Date*” means, with respect to any Administrative Expense Claim (other than a Professional Fee Claim) becoming due on or prior to the Effective Date, 5:00 p.m. (prevailing Central Time) on such date that is forty-five days after the Effective Date.

4. “*Administrative Expense Claims Objection Deadline*” means, with respect to any Administrative Expense Claim, the later of (a) ninety (90) days after the Effective Date and (b) sixty (60) days after the timely Filing of the applicable request for payment of such Administrative Expense Claim; *provided, however*, that the Administrative Expense Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

5. “*Affiliate*” of any Person means any Entity that, with respect to such Person, either (i) is an “affiliate” as defined in section 101(2) of the Bankruptcy Code, or (ii) is an “affiliate” as defined in Rule 405 of the Securities Act of 1933, or (iii) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, the term “control” (including, without limitation, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction in any respect of the management or policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

6. “*Allowed*” means, with respect to any Claim, except as otherwise provided in the Plan: (a) any Claim that is evidenced by a Proof of Claim that has been timely Filed by the Bar Date, or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy

Code or a Final Order; (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed and for which no Proof of Claim has been timely filed; (c) a Claim Allowed pursuant to the Plan or an order of the Bankruptcy Court that is not stayed pending appeal; or (d) a Claim that is not Disputed (including for which a Proof of Claim has been timely filed in a liquidated and noncontingent amount that has not been objected to by the Claims Objection Deadline or as to which any such objection has been overruled by Final Order); *provided, however*, that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed as set forth above.

7. “*Allowed Claim or Equity Interest*” means a Claim or an Equity Interest of the type that has been Allowed.

8. “*Assets*” means all of the rights, titles, and interest of the Debtor, Reorganized Debtor, or Claimant Trust, in and to property of whatever type or nature, including, without limitation, real, personal, mixed, intellectual, tangible, and intangible property, the Debtor’s books and records, and the Causes of Action.

9. “*Available Cash*” means any Cash in excess of the amount needed for the Claimant Trust and Reorganized Debtor to maintain business operations as determined in the sole discretion of the Claimant Trustee.

10. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought by and on behalf of the Debtor or its Estate under the Bankruptcy Code or applicable nonbankruptcy law, including, without limitation, actions or remedies arising under sections 502, 510, 544, 545, and 547-553 of the Bankruptcy Code or under similar state or federal statutes and common law, including fraudulent transfer laws

11. “*Ballot*” means the form(s) distributed to holders of Impaired Claims or Equity Interests entitled to vote on the Plan on which to indicate their acceptance or rejection of the Plan.

12. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended from time to time and as applicable to the Chapter 11 Case.

13. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or any other court having jurisdiction over the Chapter 11 Case.

14. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in each case as amended from time to time and as applicable to the Chapter 11 Case.

15. “*Bar Date*” means the applicable deadlines set by the Bankruptcy Court for the filing of Proofs of Claim against the Debtor as set forth in the Bar Date Order, which deadlines may be or have been extended for certain Claimants by order of the Bankruptcy Court.

16. “*Bar Date Order*” means the *Order (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [D.I. 488].

17. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

18. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

19. “*Causes of Action*” means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including, without limitation, under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes, without limitation,: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any claims under any state or foreign law, including, without limitation, any fraudulent transfer or similar claims; (f) the Avoidance Actions, and (g) the Estate Claims. The Causes of Action include, without limitation, the Causes of Action belonging to the Debtor’s Estate listed on the schedule of Causes of Action to be filed with the Plan Supplement.

20. “*CEO/CRO*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer.

21. “*Chapter 11 Case*” means the Debtor’s case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Delaware Bankruptcy Court and transferred to the Bankruptcy Court on December 4, 2019, and styled *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj-11.

22. “*Claim*” means any “claim” against the Debtor as defined in section 101(5) of the Bankruptcy Code.

23. “*Claims Objection Deadline*” means the date that is 180 days after the Confirmation Date; *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court upon a motion by the Claimant Trustee.

24. “*Claimant Trust*” means the trust established for the benefit of the Claimant Trust Beneficiaries on the Effective Date in accordance with the terms of this Plan and the Claimant Trust Agreement.

25. “*Claimant Trust Agreement*” means the agreement Filed in the Plan Supplement establishing and delineating the terms and conditions of the Claimant Trust.

26. “*Claimant Trust Assets*” means (i) other than the Reorganized Debtor Assets (which are expressly excluded from this definition), all other Assets of the Estate, including, but not limited to, all Causes of Action, Available Cash, any proceeds realized or received from such Assets, all rights of setoff, recoupment, and other defenses with respect, relating to, or arising from such Assets, (ii) any Assets transferred by the Reorganized Debtor to the Claimant Trust on or after the Effective Date, (iii) the limited partnership interests in the Reorganized Debtor, and (iv) the ownership interests in New GP LLC. For the avoidance of doubt, any Causes of Action that, for any reason, are not capable of being transferred to the Claimant Trust shall constitute Reorganized Debtor Assets.

27. “*Claimant Trust Beneficiaries*” means the Holders of Allowed General Unsecured Claims, Holders of Allowed Subordinated Claims, including, upon Allowance, Disputed General Unsecured Claims and Disputed Subordinated Claims that become Allowed following the Effective Date, and, only upon certification by the Claimant Trustee that the Holders of such Claims have been paid indefeasibly in full plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, post-petition interest from the Petition Date at the Federal Judgment Rate in accordance with the terms and conditions set forth in the Claimant Trust Agreement and all Disputed Claims in Class 8 and Class 9 have been resolved, Holders of Allowed Class B/C Limited Partnership Interests, and Holders of Allowed Class A Limited Partnership Interests.

28. “*Claimant Trustee*” means James P. Seery, Jr., the Debtor’s chief executive officer and chief restructuring officer, or such other Person identified in the Plan Supplement who will act as the trustee of the Claimant Trust in accordance with the Plan, the Confirmation Order, and Claimant Trust Agreement or any replacement trustee pursuant to (and in accordance with) the Claimant Trust Agreement. The Claimant Trustee shall be responsible for, among other things, monetizing the Estate’s investment assets, resolving Claims (other than those Claims assigned to the Litigation Sub-Trust for resolution), and, as the sole officer of New GP LLC, winding down the Reorganized Debtor’s business operations.

29. “*Claimant Trust Expenses*” means all reasonable legal and other reasonable professional fees, costs, and expenses incurred by the Trustees on account of administration of the Claimant Trust, including any reasonable administrative fees and expenses, reasonable attorneys’ fees and expenses, reasonable insurance costs, taxes, reasonable escrow expenses, and other expenses.

30. “*Claimant Trust Interests*” means the non-transferable interests in the Claimant Trust that are issued to the Claimant Trust Beneficiaries pursuant to this Plan; *provided, however,* Holders of Class A Limited Partnership Interests, Class B Limited Partnership Interests, and Class C Limited Partnership Interests will not be deemed to hold Claimant Trust Interests

unless and until the Contingent Claimant Trust Interests distributed to such Holders vest in accordance with the terms of this Plan and the Claimant Trust Agreement.

31. “*Claimant Trust Oversight Committee*” means the committee of five Persons established pursuant to ARTICLE IV of this Plan to oversee the Claimant Trustee’s performance of its duties and otherwise serve the functions described in this Plan and the Claimant Trust Agreement.

32. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in ARTICLE III hereof pursuant to section 1122(a) of the Bankruptcy Code.

33. “*Class A Limited Partnership Interest*” means the Class A Limited Partnership Interests as defined in the Limited Partnership Agreement held by The Dugaboy Investment Trust, Mark and Pamela Okada Family Trust – Exempt Trust 2, Mark and Pamela Okada – Exempt Descendants’ Trust, and Mark Kiyoshi Okada, and the General Partner Interest.

34. “*Class B Limited Partnership Interest*” means the Class B Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

35. “*Class B/C Limited Partnership Interests*” means, collectively, the Class B Limited Partnership and Class C Limited Partnership Interests.

36. “*Class C Limited Partnership Interest*” means the Class C Limited Partnership Interests as defined in the Limited Partnership Agreement held by Hunter Mountain Investment Trust.

37. “*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee pursuant to 11 U.S.C. § 1102(a)(1) on October 29, 2019 [D.I. 65], consisting of (i) the Redeemer Committee of Highland Crusader Fund, (ii) Meta-e Discovery, (iii) UBS, and (iv) Acis.

38. “*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

39. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

40. “*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

41. “*Convenience Claim*” means any prepetition, liquidated, and unsecured Claim against the Debtor that as of the Confirmation Date is less than or equal to \$1,000,000 or any General Unsecured Claim that makes the Convenience Class Election. For the avoidance of doubt, the Reduced Employee Claims will be Convenience Claims.



42. “*Convenience Claim Pool*” means the \$13,150,000 in Cash that shall be available upon the Effective Date for distribution to Holders of Convenience Claims under the Plan as set forth herein. Any Cash remaining in the Convenience Claim Pool after all distributions on account of Convenience Claims have been made will be transferred to the Claimant Trust and administered as a Claimant Trust Asset.

43. “*Convenience Class Election*” means the option provided to each Holder of a General Unsecured Claim that is a liquidated Claim as of the Confirmation Date on their Ballot to elect to reduce their claim to \$1,000,000 and receive the treatment provided to Convenience Claims.

44. “*Contingent Claimant Trust Interests*” means the contingent Claimant Trust Interests to be distributed to Holders of Class A Limited Partnership Interests, Holders of Class B Limited Partnership Interests, and Holders of Class C Limited Partnership Interests in accordance with this Plan, the rights of which shall not vest, and consequently convert to Claimant Trust Interests, unless and until the Claimant Trustee Files a certification that all holders of Allowed General Unsecured Claims have been paid indefeasibly in full, plus, to the extent all Allowed unsecured Claims, excluding Subordinated Claims, have been paid in full, all accrued and unpaid post-petition interest from the Petition Date at the Federal Judgment Rate and all Disputed Claims in Class 8 and Class 9 have been resolved. As set forth in the Claimant Trust Agreement, the Contingent Claimant Trust Interests distributed to the Holders of Class A Limited Partnership Interests will be subordinated to the Contingent Claimant Trust Interests distributed to the Holders of Class B/C Limited Partnership Interests.

45. “*Debtor*” means Highland Capital Management, L.P. in its capacity as debtor and debtor in possession in the Chapter 11 Case.

46. “*Delaware Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware.

47. “*Disclosure Statement*” means that certain *Disclosure Statement for Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, as amended, supplemented, or modified from time to time, which describes this Plan, including all exhibits and schedules thereto and references therein that relate to this Plan.

48. “*Disputed*” means with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

49. “*Disputed Claims Reserve*” means the appropriate reserve(s) or account(s) to be established on the Initial Distribution Date and maintained by the Claimant Trustee for distributions on account of Disputed Claims that may subsequently become an Allowed Claim.

50. “*Disputed Claims Reserve Amount*” means, for purposes of determining the Disputed Claims Reserve, the Cash that would have otherwise been distributed to a Holder of a Disputed Claim at the time any distributions of Cash are made to the Holders of Allowed Claims. The amount of the Disputed Claim upon which the Disputed Claims Reserve is calculated shall be: (a) the amount set forth on either the Schedules or the filed Proof of Claim, as applicable; (b) the amount agreed to by the Holder of the Disputed Claim and the Claimant Trustee or Reorganized

Debtor, as applicable; (c) the amount ordered by the Bankruptcy Court if it enters an order disallowing, in whole or in part, a Disputed Claim; or (d) as otherwise ordered by the Bankruptcy Court, including an order estimating the Disputed Claim.

51. “*Distribution Agent*” means the Claimant Trustee, or any party designated by the Claimant Trustee to serve as distribution agent under this Plan.

52. “*Distribution Date*” means the date or dates determined by the Reorganized Debtor or the Claimant Trustee, as applicable, on or after the Initial Distribution Date upon which the Distribution Agent shall make distributions to holders of Allowed Claims and Interests entitled to receive distributions under the Plan.

53. “*Distribution Record Date*” means the date for determining which Holders of Claims and Equity Interests are eligible to receive distributions hereunder, which date shall be the Effective Date or such later date determined by the Bankruptcy Court.

54. “*Effective Date*” means the Business Day that this Plan becomes effective as provided in ARTICLE VIII hereof.

55. “*Employees*” means the employees of the Debtor set forth in the Plan Supplement.

56. “*Enjoined Parties*” means (i) all Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor (whether or not proof of such Claims or Equity Interests has been filed and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan), (ii) James Dondero (“Dondero”), (iii) any Entity that has appeared and/or filed any motion, objection, or other pleading in this Chapter 11 Case regardless of the capacity in which such Entity appeared and any other party in interest, (iv) any Related Entity, and (v) the Related Persons of each of the foregoing.

57. “*Entity*” means any “entity” as defined in section 101(15) of the Bankruptcy Code and also includes any Person or any other entity.

58. “*Equity Interest*” means any Equity Security in the Debtor, including, without limitation, all issued, unissued, authorized or outstanding partnership interests, shares, of stock or limited company interests, the Class A Limited Partnership Interests, the Class B Limited Partnership Interests, and the Class C Limited Partnership Interests.

59. “*Equity Security*” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

60. “*Estate*” means the bankruptcy estate of the Debtor created by virtue of section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

61. “*Estate Claims*” has the meaning given to it in Exhibit A to the *Notice of Final Term Sheet* [D.I. 354].



62. “*Exculpated Parties*” means, collectively, (i) the Debtor and its successors and assigns, (ii) the Employees, (iii) Strand, (iv) the Independent Directors, (v) the Committee, (vi) the members of the Committee (in their official capacities), (vii) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (viii) the CEO/CRO; and (ix) the Related Persons of each of the parties listed in (iv) through (viii); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), NexBank, SSB (and any of its subsidiaries), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Exculpated Party.”

63. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

64. “*Exhibit*” means an exhibit annexed hereto or to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time), which are incorporated by reference herein.

65. “*Federal Judgment Rate*” means the post-judgment interest rate set forth in 28 U.S.C. § 1961 as of the Effective Date.

66. “*File*” or “*Filed*” or “*Filing*” means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.

67. “*Final Order*” means an order or judgment of the Bankruptcy Court, which is in full force and effect, and as to which the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, new trial, reargument, or rehearing shall have been waived in writing in form and substance satisfactory to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, or, in the event that an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or *certiorari*, new trial, reargument or rehearing shall have been denied and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed with respect to such order shall not preclude such order from being a Final Order.

68. “*Frontier Secured Claim*” means the loan from Frontier State Bank to the Debtor in the principal amount of \$7,879,688.00 made pursuant to that certain First Amended and Restated Loan Agreement, dated March 29, 2018.

69. “*General Partner Interest*” means the Class A Limited Partnership Interest held by Strand, as the Debtor’s general partner.

70. “*General Unsecured Claim*” means any prepetition Claim against the Debtor that is not Secured and is not a/an: (a) Administrative Expense Claim; (b) Professional Fee Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; or (e) Convenience Claim.

71. “*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

72. “*GUC Election*” means the option provided to each Holder of a Convenience Claim on their Ballot to elect to receive the treatment provided to General Unsecured Claims.

73. “*Holder*” means an Entity holding a Claim against, or Equity Interest in, the Debtor.

74. “*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

75. “*Independent Directors*” means John S. Dubel, James P. Seery, Jr., and Russell Nelms, the independent directors of Strand appointed on January 9, 2020, and any additional or replacement directors of Strand appointed after January 9, 2020, but prior to the Effective Date.

76. “*Initial Distribution Date*” means, subject to the “Treatment” sections in ARTICLE III hereof, the date that is on or as soon as reasonably practicable after the Effective Date, when distributions under this Plan shall commence to Holders of Allowed Claims and Equity Interests.

77. “*Insurance Policies*” means all insurance policies maintained by the Debtor as of the Petition Date.

78. “*Jefferies Secured Claim*” means any Claim in favor of Jefferies, LLC, arising under that certain Prime Brokerage Customer Agreement, dated May 24, 2013, between the Debtor and Jefferies, LLC, that is secured by the assets, if any, maintained in the prime brokerage account created by such Prime Brokerage Customer Agreement.

79. “*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code and, with respect to any asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

80. “*Limited Partnership Agreement*” means that certain Fourth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., dated December 24, 2015, as amended.

81. “*Litigation Sub-Trust*” means the sub-trust established within the Claimant Trust or as a wholly –owned subsidiary of the Claimant Trust on the Effective Date in each case in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement and Claimant Trust Agreement. As set forth in the Litigation Sub-Trust Agreement, the Litigation Sub-Trust shall hold the Claimant Trust Assets that are Estate Claims.

82. “*Litigation Sub-Trust Agreement*” means the agreement filed in the Plan Supplement establishing and delineating the terms and conditions of the Litigation Sub-Trust.

83. “*Litigation Trustee*” means the trustee appointed by the Committee and reasonably acceptable to the Debtor who shall be responsible for investigating, litigating, and settling the Estate Claims for the benefit of the Claimant Trust in accordance with the terms and conditions set forth in the Litigation Sub-Trust Agreement.

84. “*Managed Funds*” means Highland Multi-Strategy Credit Fund, L.P., Highland Restoration Capital Partners, L.P., and any other investment vehicle managed by the Debtor pursuant to an Executory Contract assumed pursuant to this Plan.

85. “*New Frontier Note*” means that promissory note to be provided to the Allowed Holders of Class 2 Claims under this Plan and any other documents or security agreements securing the obligations thereunder.

86. “*New GP LLC*” means a limited liability company incorporated in the State of Delaware pursuant to the New GP LLC Documents to serve as the general partner of the Reorganized Debtor on the Effective Date.

87. “*New GP LLC Documents*” means the charter, operating agreement, and other formational documents of New GP LLC.

88. “*Ordinary Course Professionals Order*” means that certain *Order Pursuant to Sections 105(a), 327, 328, and 330 of the Bankruptcy Code Authorizing the Debtor to Retain, Employ, and Compensate Certain Professionals Utilized by the Debtor in the Ordinary Course* [D.I. 176].

89. “*Other Unsecured Claim*” means any Secured Claim other than the Jefferies Secured Claim and the Frontier Secured Claim.

90. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, individual, corporation, company, general or limited partnership, limited liability company, unincorporated organization firm, trust, estate, business trust, association, joint stock company, joint venture, government, governmental agency, Governmental Unit or any subdivision thereof, the United States Trustee, or any other entity, whether acting in an individual, fiduciary or other capacity.

91. “*Petition Date*” means October 16, 2019.

92. “*Plan*” means this *Debtor’s Fifth Amended Chapter 11 Plan of Reorganization*, including the Exhibits and the Plan Documents and all supplements, appendices,

and schedules thereto, either in its present form or as the same may be altered, amended, modified or otherwise supplemented from time to time.

93. “*Plan Distribution*” means the payment or distribution of consideration to Holders of Allowed Claims and Allowed Equity Interests under this Plan.

94. “*Plan Documents*” means any of the documents, other than this Plan, but including, without limitation, the documents to be filed with the Plan Supplement, to be executed, delivered, assumed, or performed in connection with the occurrence of the Effective Date, and as may be modified consistent with the terms hereof with the consent of the Committee.

95. “*Plan Supplement*” means the ancillary documents necessary for the implementation and effectuation of the Plan, including, without limitation, (i) the form of Claimant Trust Agreement, (ii) the forms of New GP LLC Documents, (iii) the form of Reorganized Limited Partnership Agreement, (iv) the Sub-Servicer Agreement (if applicable), (v) the identity of the initial members of the Claimant Trust Oversight Committee, (vi) the form of Litigation Sub-Trust Agreement; (vii) the schedule of retained Causes of Action; (viii) the New Frontier Note, (ix) the schedule of Employees; (x) the form of Senior Employee Stipulation,; and (xi) the schedule of Executory Contracts and Unexpired Leases to be assumed pursuant to this Plan, which, in each case, will be in form and substance reasonably acceptable to the Debtor and the Committee.

96. “*Priority Non-Tax Claim*” means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, including any Claims for paid time-off entitled to priority under section 507(a)(4) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

97. “*Pro Rata*” means the proportion that (a) the Allowed amount of a Claim or Equity Interest in a particular Class bears to (b) the aggregate Allowed amount of all Claims or Equity Interests in such Class.

98. “*Professional*” means (a) any Entity employed in the Chapter 11 Case pursuant to section 327, 328 363 or 1103 of the Bankruptcy Code or otherwise and (b) any Entity seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to sections 327, 328, 330, 331, 363, 503(b), 503(b)(4) and 1103 of the Bankruptcy Code.

99. “*Professional Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code, with respect to a particular Professional, for compensation for services rendered or reimbursement of costs, expenses or other charges incurred after the Petition Date and prior to and including the Effective Date.

100. “*Professional Fee Claims Bar Date*” means with respect to Professional Fee Claims, the Business Day which is sixty (60) days after the Effective Date or such other date as approved by order of the Bankruptcy Court.

101. “*Professional Fee Claims Objection Deadline*” means, with respect to any Professional Fee Claim, thirty (30) days after the timely Filing of the applicable request for payment of such Professional Fee Claim.

102. “*Professional Fee Reserve*” means the reserve established and funded by the Claimant Trustee pursuant this Plan to provide sufficient funds to satisfy in full unpaid Allowed Professional Fee Claims.

103. “*Proof of Claim*” means a written proof of Claim or Equity Interest Filed against the Debtor in the Chapter 11 Case.

104. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

105. “*Protected Parties*” means, collectively, (i) the Debtor and its successors and assigns, direct and indirect majority-owned subsidiaries, and the Managed Funds, (ii) the Employees, (iii) Strand, (iv) the Reorganized Debtor, (v) the Independent Directors, (vi) the Committee, (vii) the members of the Committee (in their official capacities), (viii) the Claimant Trust, (ix) the Claimant Trustee, (x) the Litigation Sub-Trust, (xi) the Litigation Trustee, (xii) the members of the Claimant Trust Oversight Committee (in their official capacities), (xiii) New GP LLC, (xiv) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case, (xv) the CEO/CRO; and (xvi) the Related Persons of each of the parties listed in (iv) through (xv); *provided, however*, that, for the avoidance of doubt, none of James Dondero, Mark Okada, NexPoint Advisors, L.P. (and any of its subsidiaries and managed entities), the Charitable Donor Advised Fund, L.P. (and any of its subsidiaries, including CLO Holdco, Ltd., and managed entities), Highland CLO Funding, Ltd. (and any of its subsidiaries, members, and managed entities), NexBank, SSB (and any of its subsidiaries), Highland Capital Management Fund Advisors, L.P. (and any of its subsidiaries and managed entities), the Hunter Mountain Investment Trust (or any trustee acting for the trust), the Dugaboy Investment Trust (or any trustee acting for the trust), or Grant Scott is included in the term “Protected Party.”

106. “*PTO Claims*” means any Claim for paid time off in favor of any Debtor employee in excess of the amount that would qualify as a Priority Non-Tax Claim under section 507(a)(4) of the Bankruptcy Code.

107. “*Reduced Employee Claims*” has the meaning set forth in ARTICLE IX.D.

108. “*Reinstated*” means, with respect to any Claim or Equity Interest, (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim or Equity Interest in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim or Equity Interest to demand or receive accelerated payment of such Claim or Equity Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim or Equity Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Equity Interest for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim or Equity Interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder



of such Claim or Equity Interest (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder of such Claim.

109. “*Rejection Claim*” means any Claim for monetary damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Confirmation Order.

110. “*Related Entity*” means, without duplication, (a) Dondero, (b) Mark Okada (“*Okada*”), (c) Grant Scott (“*Scott*”), (d) Hunter Covitz (“*Covitz*”), (e) any entity or person that was an insider of the Debtor on or before the Petition Date under Section 101(31) of the Bankruptcy Code, including, without limitation, any entity or person that was a non-statutory insider, (f) any entity that, after the Effective Date, is an insider or Affiliate of one or more of Dondero, Okada, Scott, Covitz, or any of their respective insiders or Affiliates, including, without limitation, The Dugaboy Investment Trust, (g) the Hunter Mountain Investment Trust and any of its direct or indirect parents, (h) the Charitable Donor Advised Fund, L.P., and any of its direct or indirect subsidiaries, and (i) Affiliates of the Debtor and any other Entities listed on the Related Entity List.

111. “*Related Entity List*” means that list of Entities filed with the Plan Supplement.

112. “*Related Persons*” means, with respect to any Person, such Person’s predecessors, successors, assigns (whether by operation of law or otherwise), and each of their respective present, future, or former officers, directors, employees, managers, managing members, members, financial advisors, attorneys, accountants, investment bankers, consultants, professionals, advisors, shareholders, principals, partners, subsidiaries, divisions, management companies, heirs, agents, and other representatives, in each case solely in their capacity as such.

113. “*Released Parties*” means, collectively, (i) the Independent Directors; (ii) Strand (solely from the date of the appointment of the Independent Directors through the Effective Date); (iii) the CEO/CRO; (iv) the Committee; (v) the members of the Committee (in their official capacities), (vi) the Professionals retained by the Debtor and the Committee in the Chapter 11 Case; and (vii) the Employees.

114. “*Reorganized Debtor*” means the Debtor, as reorganized pursuant to this Plan on and after the Effective Date.

115. “*Reorganized Debtor Assets*” means any limited and general partnership interests held by the Debtor, the management of the Managed Funds and those Causes of Action (including, without limitation, claims for breach of fiduciary duty), that, for any reason, are not capable of being transferred to the Claimant Trust. For the avoidance of doubt, “*Reorganized Debtor Assets*” includes any partnership interests or shares of Managed Funds held by the Debtor but does not include the underlying portfolio assets held by the Managed Funds.

116. “*Reorganized Limited Partnership Agreement*” means that certain Fifth Amended and Restated Agreement of Limited Partnership of Highland Capital Management, L.P., by and among the Claimant Trust, as limited partner, and New GP LLC, as general partner, Filed with the Plan Supplement.

117. “*Restructuring*” means the restructuring of the Debtor, the principal terms of which are set forth in this Plan and the Disclosure Statement.

118. “*Retained Employee Claim*” means any Claim filed by a current employee of the Debtor who will be employed by the Reorganized Debtor upon the Effective Date.

119. “*Schedules*” means the schedules of Assets and liabilities, statements of financial affairs, lists of Holders of Claims and Equity Interests and all amendments or supplements thereto Filed by the Debtor with the Bankruptcy Court [D.I. 247].

120. “*Secured*” means, when referring to a Claim: (a) secured by a Lien on property in which the Debtor’s Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the interest of the Debtor’s Estate in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

121. “*Security*” or “*security*” means any security as such term is defined in section 101(49) of the Bankruptcy Code.

122. “*Senior Employees*” means the senior employees of the Debtor Filed in the Plan Supplement.

123. “*Senior Employee Stipulation*” means the agreements filed in the Plan Supplement between each Senior Employee and the Debtor.

124. “*Stamp or Similar Tax*” means any stamp tax, recording tax, personal property tax, conveyance fee, intangibles or similar tax, real estate transfer tax, sales tax, use tax, transaction privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes imposed or assessed by any Governmental Unit.

125. “*Statutory Fees*” means fees payable pursuant to 28 U.S.C. § 1930.

126. “*Strand*” means Strand Advisors, Inc., the Debtor’s general partner.

127. “*Sub-Servicer*” means a third-party selected by the Claimant Trustee to service or sub-service the Reorganized Debtor Assets.

128. “*Sub-Servicer Agreement*” means the agreement that may be entered into providing for the servicing of the Reorganized Debtor Assets by the Sub-Servicer.

129. “*Subordinated Claim*” means any Claim that is subordinated to the Convenience Claims and General Unsecured Claims pursuant to an order entered by the Bankruptcy Court (including any other court having jurisdiction over the Chapter 11 Case) after notice and a hearing.



130. “*Subordinated Claimant Trust Interests*” means the Claimant Trust Interests to be distributed to Holders of Allowed Subordinated Claims under the Plan, which such interests shall be subordinated in right and priority to the Claimant Trust Interests distributed to Holders of Allowed General Unsecured Claims as provided in the Claimant Trust Agreement.

131. “*Trust Distribution*” means the transfer of Cash or other property by the Claimant Trustee to the Claimant Trust Beneficiaries.

132. “*Trustees*” means, collectively, the Claimant Trustee and Litigation Trustee.

133. “*UBS*” means, collectively, UBS Securities LLC and UBS AG London Branch.

134. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

135. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

136. “*Voting Deadline*” means the date and time by which all Ballots to accept or reject the Plan must be received in order to be counted under the under the Order of the Bankruptcy Court approving the Disclosure Statement as containing adequate information pursuant to section 1125(a) of the Bankruptcy Code and authorizing the Debtor to solicit acceptances of the Plan.

137. “*Voting Record Date*” means November 23, 2020.

## **ARTICLE II.**

### **ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS**

#### **A. Administrative Expense Claims**

On the later of the Effective Date or the date on which an Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or, in each such case, as soon as practicable thereafter, each Holder of an Allowed Administrative Expense Claim (other than Professional Fee Claims) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Administrative Expense Claim either (i) payment in full in Available Cash for the unpaid portion of such Allowed Administrative Expense Claim; or (ii) such other less favorable treatment as agreed to in writing by the Debtor or the Reorganized Debtor, as applicable, and such Holder; *provided, however*, that Administrative Expense Claims incurred by the Debtor in the ordinary course of business may be paid in the ordinary course of business in the discretion of the Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. All statutory fees payable under 28 U.S.C. § 1930(a) shall be paid as such fees become due.

If an Administrative Expense Claim (other than a Professional Fee Claim) is not paid by the Debtor in the ordinary course, the Holder of such Administrative Expense Claim must File, on

or before the applicable Administrative Expense Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for allowance and payment of such Administrative Expense Claim.

Objections to any Administrative Expense Claim (other than a Professional Fee Claim) must be Filed and served on the Debtor or the Reorganized Debtor, as applicable, and the party asserting such Administrative Expense Claim by the Administrative Expense Claims Objection Deadline.

**B. Professional Fee Claims**

Professionals or other Entities asserting a Professional Fee Claim for services rendered through the Effective Date must submit fee applications under sections 327, 328, 329,330, 331, 503(b) or 1103 of the Bankruptcy Code and, upon entry of an order of the Bankruptcy Court granting such fee applications, such Professional Fee Claim shall promptly be paid in Cash in full to the extent provided in such order.

Professionals or other Entities asserting a Professional Fee Claim for services rendered on or prior to the Effective Date must File, on or before the Professional Fee Claims Bar Date, and serve on the Debtor or Reorganized Debtor, as applicable, and such other Entities who are designated as requiring such notice by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim.

Objections to any Professional Fee Claim must be Filed and served on the Debtor or Reorganized Debtor, as applicable, and the party asserting the Professional Fee Claim by the Professional Fee Claim Objection Deadline. Each Holder of an Allowed Professional Fee Claim will be paid by the Debtor or the Claimant Trust, as applicable, in Cash within ten (10) Business Days of entry of the order approving such Allowed Professional Fee Claim.

On the Effective Date, the Claimant Trustee shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Claimant Trust and shall be maintained by the Claimant Trustee in accordance with the Plan and Claimant Trust Agreement. The Claimant Trust shall fund the Professional Fee Reserve on the Effective Date in an estimated amount determined by the Debtor in good faith prior to the Confirmation Date and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. Following the payment of all Allowed Professional Fee Claims, any excess funds in the Professional Fee Reserve shall be released to the Claimant Trust to be used for other purposes consistent with the Plan and the Claimant Trust Agreement.

**C. Priority Tax Claims**

On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtor: (a) Cash in an amount of a total value as of the Effective Date of the Plan equal to the amount of such Allowed

Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, or (b) if paid over time, payment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) such other less favorable treatment as agreed to in writing by the Debtor and such Holder. Payment of statutory fees due pursuant to 28 U.S.C. § 1930(a)(6) will be made at all appropriate times until the entry of a final decree; *provided, however*, that the Debtor may prepay any or all such Claims at any time, without premium or penalty.

**ARTICLE III.**  
**CLASSIFICATION AND TREATMENT OF**  
**CLASSIFIED CLAIMS AND EQUITY INTERESTS**

**A. Summary**

All Claims and Equity Interests, except Administrative Expense Claims and Priority Tax Claims, are classified in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, and Priority Tax Claims have not been classified.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes including, without limitation, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released or otherwise settled (in each case, by the Debtor or any other Entity) prior to the Effective Date.

**B. Summary of Classification and Treatment of Classified Claims and Equity Interests**

<b>Class</b>	<b>Claim</b>	<b>Status</b>	<b>Voting Rights</b>
1	Jefferies Secured Claim	Unimpaired	Deemed to Accept
2	Frontier Secured Claim	Impaired	Entitled to Vote
3	Other Secured Claims	Unimpaired	Deemed to Accept
4	Priority Non-Tax Claim	Unimpaired	Deemed to Accept
5	Retained Employee Claim	Unimpaired	Deemed to Accept
6	PTO Claims	Unimpaired	Deemed to Accept
7	Convenience Claims	Impaired	Entitled to Vote
8	General Unsecured Claims	Impaired	Entitled to Vote
9	Subordinated Claims	Impaired	Entitled to Vote
10	Class B/C Limited Partnership Interests	Impaired	Entitled to Vote
11	Class A Limited Partnership Interests	Impaired	Entitled to Vote

**C. Elimination of Vacant Classes**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Equity Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**D. Impaired/Voting Classes**

Claims and Equity Interests in Class 2 and Class 7 through Class 11 are Impaired by the Plan, and only the Holders of Claims or Equity Interests in those Classes are entitled to vote to accept or reject the Plan.

**E. Unimpaired/Non-Voting Classes**

Claims in Class 1 and Class 3 through Class 6 are Unimpaired by the Plan, and such Holders are deemed to have accepted the Plan and are therefore not entitled to vote on the Plan.

**F. Impaired/Non-Voting Classes**

There are no Classes under the Plan that will not receive or retain any property and no Classes are deemed to reject the Plan.

**G. Cramdown**

If any Class of Claims or Equity Interests is deemed to reject this Plan or does not vote to accept this Plan, the Debtor may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claims or Equity Interests, or any class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**H. Classification and Treatment of Claims and Equity Interests**

1. Class 1 – Jefferies Secured Claim

- *Classification:* Class 1 consists of the Jefferies Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 1 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtor: (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtor and the Holder of such Allowed Class 1 Claim will have agreed upon in writing; or (C) such other treatment rendering such Claim Unimpaired. Each Holder of an Allowed Class 1 Claim will retain the Liens securing its Allowed Class 1 Claim as of the Effective Date until

full and final payment of such Allowed Class 1 Claim is made as provided herein.

- *Impairment and Voting:* Class 1 is Unimpaired, and the Holders of Class 1 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 1 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

2. *Class 2 – Frontier Secured Claim*

- *Classification:* Class 2 consists of the Frontier Secured Claim.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 2 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim: (A) Cash in an amount equal to all accrued but unpaid interest on the Frontier Claim through and including the Effective Date and (B) the New Frontier Note. The Holder of an Allowed Class 2 Claim will retain the Liens securing its Allowed Class 2 Claim as of the Effective Date until full and final payment of such Allowed Class 2 Claim is made as provided herein.
- *Impairment and Voting:* Class 2 is Impaired, and the Holders of Class 2 Claims are entitled to vote to accept or reject this Plan.

3. *Class 3 – Other Secured Claims*

- *Classification:* Class 3 consists of the Other Secured Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 3 Claim is Allowed on the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 3 Claim, at the option of the Debtor, or following the Effective Date, the Reorganized Debtor or Claimant Trustee, as applicable, (i) Cash equal to such Allowed Other Secured Claim, (ii) the collateral securing its Allowed Other Secured Claim, plus postpetition interest to the extent required under Bankruptcy Code Section 506(b), or (iii) such other treatment rendering such Claim Unimpaired.
- *Impairment and Voting:* Class 3 is Unimpaired, and the Holders of Class 3 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 3 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

4. Class 4 – Priority Non-Tax Claims

- *Classification:* Class 4 consists of the Priority Non-Tax Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 4 Claim is Allowed on the Effective Date or (ii) the date on which such Class 4 Claim becomes an Allowed Class 4 Claim, each Holder of an Allowed Class 4 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 4 Claim Cash equal to the amount of such Allowed Class 4 Claim.
- *Impairment and Voting:* Class 4 is Unimpaired, and the Holders of Class 4 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 4 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

5. Class 5 – Retained Employee Claims

- *Classification:* Class 5 consists of the Retained Employee Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the Effective Date, each Allowed Class 5 Claim will be Reinstated.
- *Impairment and Voting:* Class 5 is Unimpaired, and the Holders of Class 5 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 5 Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

6. Class 6 – PTO Claims

- *Classification:* Class 6 consists of the PTO Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 6 Claim is Allowed on the Effective Date or (ii) the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Claim 6 Claim Cash equal to the amount of such Allowed Class 6 Claim.
- *Impairment and Voting:* Class 6 is Unimpaired, and the Holders of Class 6 Claims are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Class 6



Claims are not entitled to vote to accept or reject this Plan and will not be solicited.

7. Class 7 – Convenience Claims

- *Classification:* Class 7 consists of the Convenience Claims.
- *Allowance and Treatment:* On or as soon as reasonably practicable after the later of (i) the Initial Distribution Date if such Class 7 Claim is Allowed on the Effective Date or (ii) the date on which such Class 7 Claim becomes an Allowed Class 7 Claim, each Holder of an Allowed Class 7 Claim will receive in full satisfaction, settlement, discharge and release of, and in exchange for, its Allowed Class 7 Claim (1) the treatment provided to Allowed Holders of Class 8 General Unsecured Claims if the Holder of such Class 7 Claim makes the GUC Election or (2) an amount in Cash equal to the lesser of (a) 85% of the Allowed amount of such Holder's Class 7 Claim or (b) such Holder's Pro Rata share of the Convenience Claims Cash Pool.
- *Impairment and Voting:* Class 7 is Impaired, and the Holders of Class 7 Claims are entitled to vote to accept or reject this Plan.

8. Class 8 – General Unsecured Claims

- *Classification:* Class 8 consists of the General Unsecured Claims.
- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 8 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Claimant Trust Interests, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing, or (iii) the treatment provided to Allowed Holders of Class 7 Convenience Claims if the Holder of such Class 8 General Unsecured Claim is eligible and makes a valid Convenience Class Election.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any General Unsecured Claim, except with respect to any General Unsecured Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 8 is Impaired, and the Holders of Class 8 Claims are entitled to vote to accept or reject this Plan.



9. Class 9 – Subordinated Claims

- *Classification:* Class 9 consists of the Subordinated Claims.

*Treatment:* On the Effective Date, Holders of Subordinated Claims shall receive either (i) their Pro Rata share of the Subordinated Claimant Trust Interests or, (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee may agree upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Subordinated Claim, except with respect to any Subordinated Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 9 is Impaired, and the Holders of Class 9 Claims are entitled to vote to accept or reject this Plan.

10. Class 10 – Class B/C Limited Partnership Interests

- *Classification:* Class 10 consists of the Class B/C Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 10 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class B/C Limited Partnership Interest Claim, except with respect to any Class B/C Limited Partnership Interest Claim Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 10 is Impaired, and the Holders of Class 10 Claims are entitled to vote to accept or reject this Plan.

11. Class 11 – Class A Limited Partnership Interests

- *Classification:* Class 11 consists of the Class A Limited Partnership Interests.

- *Treatment:* On or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Class 11 Claim, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim shall receive (i) its Pro Rata share of the Contingent Claimant Trust Interests or (ii) such other less favorable treatment as to which such Holder and the Claimant Trustee shall have agreed upon in writing.

Notwithstanding anything to the contrary herein, after the Effective Date and subject to the other provisions of this Plan, the Debtor, the Reorganized Debtor, and the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Class A Limited Partnership Interest, except with respect to any Class A Limited Partnership Interest Allowed by Final Order of the Bankruptcy Court.

- *Impairment and Voting:* Class 11 is Impaired, and the Holders of Class 11 Claims are entitled to vote to accept or reject this Plan.

#### **I. Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's rights in respect of any Unimpaired Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

#### **J. Subordinated Claims**

The allowance, classification, and treatment of all Claims under the Plan shall take into account and conform to the contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Upon written notice and hearing, the Debtor the Reorganized Debtor, and the Claimant Trustee reserve the right to seek entry of an order by the Bankruptcy Court to re-classify or to subordinate any Claim in accordance with any contractual, legal, or equitable subordination relating thereto, and the treatment afforded any Claim under the Plan that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

### **ARTICLE IV.** **MEANS FOR IMPLEMENTATION OF THIS PLAN**

#### **A. Summary**

As discussed in the Disclosure Statement, the Plan will be implemented through (i) the Claimant Trust, (ii) the Litigation Sub-Trust, and (iii) the Reorganized Debtor.

On the Effective Date, all Class A Limited Partnership Interests, including the Class A Limited Partnership Interests held by Strand, as general partner, and Class B/C Limited Partnerships in the Debtor will be cancelled, and new Class A Limited Partnership Interests in the Reorganized Debtor will be issued to the Claimant Trust and New GP LLC – a newly-chartered limited liability company wholly-owned by the Claimant Trust. The Claimant Trust, as limited

partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor, and on and following the Effective Date, the Claimant Trust will be the Reorganized Debtor's limited partner and New GP LLC will be its general partner. The Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement, which will amend and restate, in all respects, the Debtor's current Limited Partnership Agreement. Following the Effective Date, the Reorganized Debtor will be managed consistent with the terms of the Reorganized Limited Partnership Agreement by New GP LLC. The sole managing member of New GP LLC will be the Claimant Trust, and the Claimant Trustee will be the sole officer of New GP LLC on the Effective Date.

Following the Effective Date, the Claimant Trust will administer the Claimant Trust Assets pursuant to this Plan and the Claimant Trust Agreement, and the Litigation Trustee will pursue, if applicable, the Estate Claims pursuant to the terms of the Litigation Sub-Trust Agreement and the Plan. The Reorganized Debtor will administer the Reorganized Debtor Assets and, if needed, with the utilization of a Sub-Servicer, which administration will include, among other things, managing the wind down of the Managed Funds.

Although the Reorganized Debtor will manage the wind down of the Managed Funds, it is currently anticipated that neither the Reorganized Debtor nor the Claimant Trust will assume or assume and assign the contracts between the Debtor and certain Related Entities pursuant to which the Debtor provides shared services and sub-advisory services to those Related Entities. The Debtor believes that the continued provision of the services under such contracts will not be cost effective.

The Reorganized Debtor will distribute all proceeds from the wind down to the Claimant Trust, as its limited partner, and New GP LLC, as its general partner, in each case in accordance with the Reorganized Limited Partnership Agreement. Such proceeds, along with the proceeds of the Claimant Trust Assets, will ultimately be distributed to the Claimant Trust Beneficiaries as set forth in this Plan and the Claimant Trust Agreement.

**B. The Claimant Trust<sup>2</sup>**

1. Creation and Governance of the Claimant Trust and Litigation Sub-Trust.

On or prior to the Effective Date, the Debtor and the Claimant Trustee shall execute the Claimant Trust Agreement and shall take all steps necessary to establish the Claimant Trust and the Litigation Sub-Trust in accordance with the Plan in each case for the benefit of the Claimant Trust Beneficiaries. Additionally, on or prior to the Effective Date, the Debtor shall irrevocably transfer and shall be deemed to have irrevocably transferred to the Claimant Trust all of its rights, title, and interest in and to all of the Claimant Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Claimant Trust Assets shall automatically vest in the Claimant Trust free and clear of all Claims, Liens, encumbrances, or interests subject only to the Claimant Trust Interests and the Claimant Trust Expenses, as provided for in the Claimant Trust Agreement, and

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<sup>2</sup> In the event of a conflict between the terms of this summary and the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, the terms of the Claimant Trust Agreement or the Litigation Sub-Trust Agreement, as applicable, shall control.

such transfer shall be exempt from any stamp, real estate transfer, mortgage from any stamp, transfer, reporting, sales, use, or other similar tax.

The Claimant Trustee shall be the exclusive trustee of the Claimant Trust Assets, excluding the Estate Claims and the Litigation Trustee shall be the exclusive trustee with respect to the Estate Claims in each case for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Claimant Trust Assets. The Claimant Trustee shall also be responsible for resolving all Claims and Equity Interests in Class 8 through Class 11, under the supervision of the Claimant Trust Oversight Committee.

On the Effective Date, the Claimant Trustee and Litigation Trustee shall execute the Litigation Sub-Trust Agreement and shall take all steps necessary to establish the Litigation Sub-Trust. Upon the creation of the Litigation Sub-Trust, the Claimant Trust shall irrevocably transfer and assign to the Litigation Sub-Trust the Estate Claims. The Claimant Trust shall be governed by the Claimant Trust Agreement and administered by the Claimant Trustee. The powers, rights, and responsibilities of the Claimant Trustee shall be specified in the Claimant Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting to the Claimant Trust Oversight Committee as may be set forth in the Claimant Trust Agreement. The Claimant Trust shall hold and distribute the Claimant Trust Assets (including the proceeds from the Estate Claims, if any) in accordance with the provisions of the Plan and the Claimant Trust Agreement; *provided* that the Claimant Trust Oversight Committee may direct the Claimant Trust to reserve Cash from distributions as necessary to fund the Claimant Trust and Litigation Sub-Trust. Other rights and duties of the Claimant Trustee and the Claimant Trust Beneficiaries shall be as set forth in the Claimant Trust Agreement. After the Effective Date, neither the Debtor nor the Reorganized Debtor shall have any interest in the Claimant Trust Assets.

The Litigation Sub-Trust shall be governed by the Litigation Sub-Trust Agreement and administered by the Litigation Trustee. The powers, rights, and responsibilities of the Litigation Trustee shall be specified in the Litigation Sub-Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this ARTICLE IV, subject to any required reporting as may be set forth in the Litigation Sub-Trust Agreement. The Litigation Sub-Trust shall investigate, prosecute, settle, or otherwise resolve the Estate Claims in accordance with the provisions of the Plan and the Litigation Sub-Trust Agreement and shall distribute the proceeds therefrom to the Claimant Trust for distribution. Other rights and duties of the Litigation Trustee shall be as set forth in the Litigation Sub-Trust Agreement.

2. Claimant Trust Oversight Committee

The Claimant Trust, the Claimant Trustee, the management and monetization of the Claimant Trust Assets, and the management of the Reorganized Debtor (through the Claimant Trust's role as managing member of New GP LLC) and the Litigation Sub-Trust will be overseen by the Claimant Trust Oversight Committee, subject to the terms of the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as applicable.

The Claimant Trust Oversight Committee will initially consist of five members. Four of the five members will be representatives of the members of the Committee: (i) the Redeemer Committee of Highland Crusader Fund, (ii) UBS, (iii) Acis, and (iv) Meta-e Discovery. The fifth member will be an independent, natural Person chosen by the Committee and reasonably acceptable to the Debtor. The members of the Claimant Trust Oversight Committee may be replaced as set forth in the Claimant Trust Agreement. The identity of the members of the Claimant Trust Oversight Committee will be disclosed in the Plan Supplement.

As set forth in the Claimant Trust Agreement, in no event will any member of the Claimant Trust Oversight Committee with a Claim against the Estate be entitled to vote, opine, or otherwise be involved in any matters related to such member's Claim.

The independent member(s) of the Claimant Trust Oversight Committee may be entitled to compensation for their services as set forth in the Claimant Trust Agreement. Any member of the Claimant Trust Oversight Committee may be removed, and successor chosen, in the manner set forth in the Claimant Trust Agreement.

3. Purpose of the Claimant Trust.

The Claimant Trust shall be established for the purpose of (i) managing and monetizing the Claimant Trust Assets, subject to the terms of the Claimant Trust Agreement and the oversight of the Claimant Trust Oversight Committee, (ii) serving as the limited partner of, and holding the limited partnership interests in, the Reorganized Debtor, (iii) serving as the sole member and manager of New GP LLC, the Reorganized Debtor's general partner, (iv) in its capacity as the sole member and manager of New GP LLC, overseeing the management and monetization of the Reorganized Debtor Assets pursuant to the terms of the Reorganized Limited Partnership Agreement; and (v) administering the Disputed Claims Reserve and serving as Distribution Agent with respect to Disputed Claims in Class 7 or Class 8.

In its management of the Claimant Trust Assets, the Claimant Trust will also reconcile and object to the General Unsecured Claims, Subordinated Claims, Class B/C Limited Partnership Interests, and Class A Limited Partnership Interests, as provided for in this Plan and the Claimant Trust Agreement, and make Trust Distributions to the Claimant Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

The purpose of the Reorganized Debtor is discussed at greater length in ARTICLE IV.C.

4. Purpose of the Litigation Sub-Trust.

The Litigation Sub-Trust shall be established for the purpose of investigating, prosecuting, settling, or otherwise resolving the Estate Claims. Any proceeds therefrom shall be distributed by the Litigation Sub-Trust to the Claimant Trust for distribution to the Claimant Trust Beneficiaries pursuant to the terms of the Claimant Trust Agreement.

5. Claimant Trust Agreement and Litigation Sub-Trust Agreement.

The Claimant Trust Agreement generally will provide for, among other things:

- (i) the payment of the Claimant Trust Expenses;
- (ii) the payment of other reasonable expenses of the Claimant Trust;
- (iii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation;
- (iv) the investment of Cash by the Claimant Trustee within certain limitations, including those specified in the Plan;
- (v) the orderly monetization of the Claimant Trust Assets;
- (vi) litigation of any Causes of Action, which may include the prosecution, settlement, abandonment, or dismissal of any such Causes of Action, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (vii) the resolution of Claims and Equity Interests in Class 8 through Class 11, subject to reporting and oversight by the Claimant Trust Oversight Committee;
- (viii) the administration of the Disputed Claims Reserve and distributions to be made therefrom; and
- (ix) the management of the Reorganized Debtor, including the utilization of a Sub-Servicer, with the Claimant Trust serving as the managing member of New GP LLC.

Except as otherwise ordered by the Bankruptcy Court, the Claimant Trust Expenses shall be paid from the Claimant Trust Assets in accordance with the Plan and Claimant Trust Agreement. The Claimant Trustee may establish a reserve for the payment of Claimant Trust Expense (including, without limitation, any reserve for potential indemnification claims as authorized and provided under the Claimant Trust Agreement), and shall periodically replenish such reserve, as necessary.

In furtherance of, and consistent with the purpose of, the Claimant Trust and the Plan, the Trustees, for the benefit of the Claimant Trust, shall, subject to reporting and oversight by the Claimant Trust Oversight Committee as set forth in the Claimant Trust Agreement: (i) hold the Claimant Trust Assets for the benefit of the Claimant Trust Beneficiaries, (ii) make Distributions to the Claimant Trust Beneficiaries as provided herein and in the Claimant Trust Agreement, and (iii) have the sole power and authority to prosecute and resolve any Causes of Action and objections to Claims and Equity Interests (other than those assigned to the Litigation Sub-Trust), without approval of the Bankruptcy Court. Except as otherwise provided in the Claimant Trust Agreement, the Claimant Trustee shall be responsible for all decisions and duties with respect to the Claimant Trust and the Claimant Trust Assets; *provided, however*, that the prosecution and resolution of any Estate Claims included in the Claimant Trust Assets shall be the responsibility of the Litigation Trustee. The Litigation Sub-Trust Agreement generally will provide for, among other things:

- (i) the payment of other reasonable expenses of the Litigation Sub-Trust;



(ii) the retention of employees, counsel, accountants, financial advisors, or other professionals and the payment of their reasonable compensation; and

(iii) the investigation and prosecution of Estate Claims, which may include the prosecution, settlement, abandonment, or dismissal of any such Estate Claims, subject to reporting and oversight as set forth in the Litigation Sub-Trust Agreement.

The Trustees, on behalf of the Claimant Trust and Litigation Sub-Trust, as applicable, may each employ, without further order of the Bankruptcy Court, employees and other professionals (including those previously retained by the Debtor and the Committee) to assist in carrying out the Trustees' duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further Order of the Bankruptcy Court from the Claimant Trust Assets in accordance with the Plan and the Claimant Trust Agreement.

The Claimant Trust Agreement and Litigation Sub-Trust Agreement may include reasonable and customary provisions that allow for indemnification by the Claimant Trust in favor of the Claimant Trustee, Litigation Trustee, and the Claimant Trust Oversight Committee. Any such indemnification shall be the sole responsibility of the Claimant Trust and payable solely from the Claimant Trust Assets.

6. Compensation and Duties of Trustees.

The salient terms of each Trustee's employment, including such Trustee's duties and compensation shall be set forth in the Claimant Trust Agreement and the Litigation Sub-Trust Agreement, as appropriate. The Trustees shall each be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

7. Cooperation of Debtor and Reorganized Debtor.

To effectively investigate, prosecute, compromise and/or settle the Claims and/or Causes of Action that constitute Claimant Trust Assets (including Estate Claims), the Claimant Trustee, Litigation Trustee, and each of their professionals may require reasonable access to the Debtor's and Reorganized Debtor's documents, information, and work product relating to the Claimant Trust Assets. Accordingly, the Debtor and the Reorganized Debtor, as applicable, shall reasonably cooperate with the Claimant Trustee and Litigation Trustee, as applicable, in their prosecution of Causes of Action and in providing the Claimant Trustee and Litigation Trustee with copies of documents and information in the Debtor's possession, custody, or control on the Effective Date that either Trustee indicates relates to the Estate Claims or other Causes of Action.

The Debtor and Reorganized Debtor shall preserve all records, documents or work product (including all electronic records, documents, or work product) related to the Claims and Causes of Action, including Estate Claims, until the earlier of (a) the dissolution of the Reorganized Debtor or (b) termination of the Claimant Trust and Litigation Sub-Trust.

8. United States Federal Income Tax Treatment of the Claimant Trust.

Unless the IRS requires otherwise, for all United States federal income tax purposes, the parties shall treat the transfer of the Claimant Trust Assets to the Claimant Trust as: (a) a transfer



of the Claimant Trust Assets (other than the amounts set aside in the Disputed Claims Reserve, if the Claimant Trustee makes the election described in Section 7 below) directly to the applicable Claimant Trust Beneficiaries followed by (b) the transfer by the such Claimant Trust Beneficiaries to the Claimant Trust of such Claimant Trust Assets in exchange for the Claimant Trust Interests. Accordingly, the applicable Claimant Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Claimant Trust Assets. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

9. Tax Reporting.

(a) The Claimant Trustee shall file tax returns for the Claimant Trust treating the Claimant Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a). The Claimant Trustee may file an election pursuant to Treasury Regulation 1.468B-9(c) to treat the Disputed Claims Reserve as a disputed ownership fund, in which case the Claimant Trustee will file federal income tax returns and pay taxes for the Disputed Claims Reserve as a separate taxable entity.

(b) The Claimant Trustee shall be responsible for payment, out of the Claimant Trust Assets, of any taxes imposed on the Claimant Trust or its assets.

(c) The Claimant Trustee shall determine the fair market value of the Claimant Trust Assets as of the Effective Date and notify the applicable Claimant Trust Beneficiaries of such valuation, and such valuation shall be used consistently for all federal income tax purposes.

(d) The Claimant Trustee shall distribute such tax information to the applicable Claimant Trust Beneficiaries as the Claimant Trustee determines is required by applicable law.

10. Claimant Trust Assets.

The Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Causes of Action included in the Claimant Trust Assets (except for the Estate Claims) without any further order of the Bankruptcy Court, and the Claimant Trustee shall have the exclusive right, on behalf of the Claimant Trust, to sell, liquidate, or otherwise monetize all Claimant Trust Assets, except as otherwise provided in this Plan or in the Claimant Trust Agreement, without any further order of the Bankruptcy Court. Notwithstanding anything herein to the contrary, the Litigation Trustee shall have the exclusive right to institute, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw any and all Estate Claims included in the Claimant Trust Assets without any further order of the Bankruptcy Court.

From and after the Effective Date, the Trustees, in accordance with section 1123(b)(3) and (4) of the Bankruptcy Code, and on behalf of the Claimant Trust, shall each serve as a representative of the Estate with respect to any and all Claimant Trust Assets, including the Causes of Action and Estate Claims, as appropriate, and shall retain and possess the right to (a) commence, pursue, settle, compromise, or abandon, as appropriate, any and all Causes of Action in any court or other tribunal and (b) sell, liquidate, or otherwise monetize all Claimant Trust Assets.

11. Claimant Trust Expenses.

From and after the Effective Date, the Claimant Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Claimant Trust, the Litigation Sub-Trust, and any professionals retained by such parties and entities from the Claimant Trust Assets, except as otherwise provided in the Claimant Trust Agreement.

12. Trust Distributions to Claimant Trust Beneficiaries.

The Claimant Trustee, in its discretion, may make Trust Distributions to the Claimant Trust Beneficiaries at any time and/or use the Claimant Trust Assets or proceeds thereof, *provided* that such Trust Distributions or use is otherwise permitted under the terms of the Plan, the Claimant Trust Agreement, and applicable law.

13. Cash Investments.

With the consent of the Claimant Trust Oversight Committee, the Claimant Trustee may invest Cash (including any earnings thereon or proceeds therefrom) in a manner consistent with the terms of the Claimant Trust Agreement; *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

14. Dissolution of the Claimant Trust and Litigation Sub-Trust.

The Trustees and the Claimant Trust and Litigation Sub-Trust shall be discharged or dissolved, as the case may be, at such time as: (a) the Litigation Trustee determines that the pursuit of Estate Claims is not likely to yield sufficient additional proceeds to justify further pursuit of such Estate Claims, (b) the Claimant Trustee determines that the pursuit of Causes of Action (other than Estate Claims) is not likely to yield sufficient additional proceeds to justify further pursuit of such Causes of Action, (c) the Claimant Trustee determines that the pursuit of sales of other Claimant Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit of such sales of Claimant Trust Assets, (d) all objections to Disputed Claims and Equity Interests are fully resolved, (e) the Reorganized Debtor is dissolved, and (f) all Distributions required to be made by the Claimant Trustee to the Claimant Trust Beneficiaries under the Plan have been made, but in no event shall the Claimant Trust be dissolved later than three years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such third anniversary (and, in the event of further extension, by order of the Bankruptcy Court, upon motion made at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed two years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the Claimant Trust Assets; *provided, however*, that each extension must be approved, upon a finding that the extension is necessary to facilitate or complete the recovery on, and liquidation of the Claimant Trust Assets, by the Bankruptcy Court within 6 months of the beginning of the extended term and

no extension, together with any prior extensions, shall exceed three years without a favorable letter ruling from the Internal Revenue Service or an opinion of counsel that any further extension would not adversely affect the status of the Claimant Trust as a liquidating trust for federal income tax purposes.

Upon dissolution of the Claimant Trust, and pursuant to the Claimant Trust Agreement, any remaining Claimant Trust Assets that exceed the amounts required to be paid under the Plan will be transferred (in the sole discretion of the Claimant Trustee) in Cash or in-kind to the Holders of the Claimant Trust Interests as provided in the Claimant Trust Agreement.

**C. The Reorganized Debtor**

1. Corporate Existence

The Debtor will continue to exist after the Effective Date, with all of the powers of partnerships pursuant to the law of the State of Delaware and as set forth in the Reorganized Limited Partnership Agreement.

2. Cancellation of Equity Interests and Release

On the Effective Date, (i) all prepetition Equity Interests, including the Class A Limited Partnership Interests and the Class B/C Limited Partnership Interests, in the Debtor shall be canceled, and (ii) all obligations or debts owed by, or Claims against, the Debtor on account of, or based upon, the Interests shall be deemed as cancelled, released, and discharged, including all obligations or duties by the Debtor relating to the Equity Interests in any of the Debtor's formation documents, including the Limited Partnership Agreement.

3. Issuance of New Partnership Interests

On the Effective Date, the Debtor or the Reorganized Debtor, as applicable, will issue new Class A Limited Partnership Interests to (i) the Claimant Trust, as limited partner, and (ii) New GP LLC, as general partner, and will admit (a) the Claimant Trust as the limited partner of the Reorganized Debtor, and (b) New GP LLC as the general partner of the Reorganized Debtor. The Claimant Trust, as limited partner, will ratify New GP LLC's appointment as general partner of the Reorganized Debtor. Also, on the Effective Date, the Claimant Trust, as limited partner, and New GP LLC, as general partner, will execute the Reorganized Limited Partnership Agreement and receive partnership interests in the Reorganized Debtor consistent with the terms of the Reorganized Limited Partnership Agreement.

The Reorganized Limited Partnership Agreement does not provide for, and specifically disclaims, the indemnification obligations under the Limited Partnership Agreement, including any such indemnification obligations that accrued or arose or could have been brought prior to the Effective Date. Any indemnification Claims under the Limited Partnership Agreement that accrued, arose, or could have been filed prior to the Effective Date will be resolved through the Claims resolution process provided that a Claim is properly filed in accordance with the Bankruptcy Code, the Plan, or the Bar Date Order. Each of the Debtor, the Reorganized Debtor, the Claimant Trust, and the Litigation Sub-Trust reserve all rights with respect to any such indemnification Claims.

4. Management of the Reorganized Debtor

Subject to and consistent with the terms of the Reorganized Limited Partnership Agreement, the Reorganized Debtor shall be managed by its general partner, New GP LLC. The initial officers and employees of the Reorganized Debtor shall be selected by the Claimant Trustee. The Reorganized Debtor may, in its discretion, also utilize a Sub-Servicer in addition to or in lieu of the retention of officers and employees.

As set forth in the Reorganized Limited Partnership Agreement, New GP LLC will receive a fee for managing the Reorganized Debtor. Although New GP LLC will be a limited liability company, it will elect to be treated as a C-Corporation for tax purposes. Therefore, New GP LLC (and any taxable income attributable to it) will be subject to corporate income taxation on a standalone basis, which may reduce the return to Claimants.

5. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in this Plan or the Confirmation Order, on or after the Effective Date, all Reorganized Debtor Assets will vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.

The Reorganized Debtor shall be the exclusive trustee of the Reorganized Debtor Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code with respect to the Reorganized Debtor Assets.

6. Purpose of the Reorganized Debtor

Except as may be otherwise provided in this Plan or the Confirmation Order, the Reorganized Debtor will continue to manage the Reorganized Debtor Assets (which shall include, for the avoidance of doubt, serving as the investment manager of the Managed Funds) and may use, acquire or dispose of the Reorganized Debtor Assets and compromise or settle any Claims with respect to the Reorganized Debtor Assets without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. The Reorganized Debtor shall oversee the resolution of Claims in Class 1 through Class 7.

Without limiting the foregoing, the Reorganized Debtor will pay the charges that it incurs after the Effective Date for Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Professional fee applications) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court.

7. Distribution of Proceeds from the Reorganized Debtor Assets; Transfer of Reorganized Debtor Assets

Any proceeds received by the Reorganized Debtor will be distributed to the Claimant Trust, as limited partner, and New GP LLC, as general partner, in the manner set forth in the Reorganized Limited Partnership Agreement. As set forth in the Reorganized Limited Partnership Agreement,

the Reorganized Debtor may, from time to time distribute Reorganized Debtor Assets to the Claimant Trust either in Cash or in-kind, including to institute the wind-down and dissolution of the Reorganized Debtor. Any assets distributed to the Claimant Trust will be (i) deemed transferred in all respects as forth in ARTICLE IV.B.1, (ii) deemed Claimant Trust Assets, and (iii) administered as Claimant Trust Assets.

**D. Company Action**

Each of the Debtor, the Reorganized Debtor, and the Trustees, as applicable, may take any and all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of this Plan, the Claimant Trust Agreement, the Reorganized Limited Partnership Agreement, or the New GP LLC Documents, as applicable, in the name of and on behalf of the Debtor, the Reorganized Debtor, or the Trustees, as applicable, and in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers, or directors of the Debtor or the Reorganized Debtor, as applicable, or by any other Person.

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, partners, directors, managers, or members of the Debtor, any Related Entity, or any Affiliate thereof (as of prior to the Effective Date) will be deemed to have been so approved and will be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, partners, directors, managers or members of such Persons, or the need for any approvals, authorizations, actions or consents of any Person.

All matters provided for in this Plan involving the legal or corporate structure of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, and any legal or corporate action required by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, in connection with this Plan, will be deemed to have occurred and will be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, partners, directors, managers, or members of the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, or by any other Person. On the Effective Date, the appropriate officers of the Debtor and the Reorganized Debtor, as applicable, as well as the Trustees, are authorized to issue, execute, deliver, and consummate the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtor and the Reorganized Debtor, as well as the Trustees, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. The appropriate officer of the Debtor, the Reorganized Debtor, as well as the Trustees, will be authorized to certify or attest to any of the foregoing actions.



**E. Release of Liens, Claims and Equity Interests**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, from and after the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all Liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity. Any Entity holding such Liens or Equity Interests extinguished pursuant to the prior sentence will, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**F. Cancellation of Notes, Certificates and Instruments**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, on the Effective Date, all agreements, instruments, Securities and other documents evidencing any prepetition Claim or Equity Interest and any rights of any Holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect. The holders of or parties to such cancelled instruments, Securities, and other documentation will have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan, and the obligations of the Debtor thereunder or in any way related thereto will be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person. For the avoidance of doubt, this section is in addition to, and shall not be read to limit in any respects, ARTICLE IV.C.2.

**G. Cancellation of Existing Instruments Governing Security Interests**

Upon payment or other satisfaction of an Allowed Class 1 or Allowed Class 2 Claim, or promptly thereafter, the Holder of such Allowed Class 1 or Allowed Class 2 Claim shall deliver to the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, any collateral or other property of the Debtor held by such Holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Class 1 or Allowed Class 2 Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or *lis pendens*, or similar interests or documents.

**H. Control Provisions**

To the extent that there is any inconsistency between this Plan as it relates to the Claimant Trust, the Claimant Trust Agreement, the Reorganized Debtor, or the Reorganized Limited Partnership Agreement, this Plan shall control.

**I. Treatment of Vacant Classes**

Any Claim or Equity Interest in a Class considered vacant under ARTICLE III.C of this Plan shall receive no Plan Distributions.

**J. Plan Documents**

The documents, if any, to be Filed as part of the Plan Documents, including any documents filed with the Plan Supplement, and any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference (including to the applicable definitions in ARTICLE I hereof) and fully enforceable as if stated in full herein.

The Debtor and the Committee are currently working to finalize the forms of certain of the Plan Documents to be filed with the Plan Supplement. To the extent that the Debtor and the Committee cannot agree as to the form and content of such Plan Documents, they intend to submit the issue to non-binding mediation pursuant to the *Order Directing Mediation* entered on August 3, 2020 [D.I. 912].

**K. Highland Capital Management, L.P. Retirement Plan and Trust**

The Highland Capital Management, L.P. Retirement Plan And Trust (“Pension Plan”) is a single-employer defined benefit pension plan covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). 29 U.S.C. §§ 1301-1461. The Debtor is the contributing sponsor and, as such, the PBGC asserts that the Debtor is liable along with any members of the contributing sponsor’s controlled-group within the meaning of 29 U.S.C. §§ 1301(a)(13), (14) with respect to the Pension Plan.

Upon the Effective Date, the Reorganized Debtor shall be deemed to have assumed the Pension Plan and shall comply with all applicable statutory provisions of ERISA and the Internal Revenue Code (the “IRC”), including, but not limited to, satisfying the minimum funding standards pursuant to 26 U.S.C. §§ 412, 430, and 29 U.S.C. §§ 1082, 1083; paying the PBGC premiums in accordance with 29 U.S.C. §§ 1306 and 1307; and administering the Pension Plan in accordance with its terms and the provisions of ERISA and the IRC. In the event that the Pension Plan terminates after the Plan of Reorganization Effective Date, the PBGC asserts that the Reorganized Debtor and each of its controlled group members will be responsible for the liabilities imposed by Title IV of ERISA.

Notwithstanding any provision of the Plan, the Confirmation Order, or the Bankruptcy Code (including section 1141 thereof) to the contrary, neither the Plan, the Confirmation Order, or the Bankruptcy Code shall be construed as discharging, releasing, exculpating or relieving the Debtor, the Reorganized Debtor, or any person or entity in any capacity, from any liability or responsibility, if any, with respect to the Pension Plan under any law, governmental policy, or regulatory provision. PBGC and the Pension Plan shall not be enjoined or precluded from enforcing such liability or responsibility against any person or entity as a result of any of the provisions of the Plan, the Confirmation Order, or the Bankruptcy Code. The Debtor reserves the right to contest any such liability or responsibility.



**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**A. Assumption, Assignment, or Rejection of Executory Contracts and Unexpired Leases**

Unless an Executory Contract or Unexpired Lease: (i) was previously assumed or rejected by the Debtor pursuant to this Plan on or prior to the Confirmation Date; (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto; (iii) is the subject of a motion to assume filed by the Debtor on or before the Confirmation Date; (iv) contains a change of control or similar provision that would be triggered by the Chapter 11 Case (unless such provision has been irrevocably waived); or (v) is specifically designated as a contract or lease to be assumed in the Plan or the Plan Supplement, on the Confirmation Date, each Executory Contract and Unexpired Lease shall be deemed rejected pursuant to section 365 of the Bankruptcy Code, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, unless such Executory Contract or Unexpired Lease is listed in the Plan Supplement.

At any time on or prior to the Confirmation Date, the Debtor may (i) amend the Plan Supplement in order to add or remove a contract or lease from the list of contracts to be assumed or (ii) assign (subject to applicable law) any Executory Contract or Unexpired Lease, as determined by the Debtor in consultation with the Committee, or the Reorganized Debtor, as applicable.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions, rejections, and assumptions and assignments. Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. To the extent applicable, no change of control (or similar provision) will be deemed to occur under any such Executory Contract or Unexpired Lease.

If certain, but not all, of a contract counterparty's Executory Contracts and/or Unexpired Leases are rejected pursuant to the Plan, the Confirmation Order shall be a determination that such counterparty's Executory Contracts and/or Unexpired Leases that are being assumed pursuant to the Plan are severable agreements that are not integrated with those Executory Contracts and/or Unexpired Leases that are being rejected pursuant to the Plan. Parties seeking to contest this finding with respect to their Executory Contracts and/or Unexpired Leases must file a timely objection to the Plan on the grounds that their agreements are integrated and not severable, and any such dispute shall be resolved by the Bankruptcy Court at the Confirmation Hearing (to the extent not resolved by the parties prior to the Confirmation Hearing).

Notwithstanding anything herein to the contrary, the Debtor shall assume or reject that certain real property lease with Crescent TC Investors L.P. ("Landlord") for the Debtor's headquarters located at 200/300 Crescent Ct., Suite #700, Dallas, Texas 75201 (the "Lease") in accordance with the notice to Landlord, procedures and timing required by 11 U.S.C. §365(d)(4),

as modified by that certain *Agreed Order Granting Motion to Extend Time to Assume or Reject Unexpired Nonresidential Real Property Lease* [Docket No. 1122].

**B. Claims Based on Rejection of Executory Contracts or Unexpired Leases**

Any Executory Contract or Unexpired Lease not assumed or rejected on or before the Confirmation Date shall be deemed rejected, pursuant to the Confirmation Order. Any Person asserting a Rejection Claim shall File a proof of claim within thirty days of the Confirmation Date. Any Rejection Claims that are not timely Filed pursuant to this Plan shall be forever disallowed and barred. If one or more Rejection Claims are timely Filed, the Claimant Trustee may File an objection to any Rejection Claim.

Rejection Claims shall be classified as General Unsecured Claims and shall be treated in accordance with ARTICLE III of this Plan.

**C. Cure of Defaults for Assumed or Assigned Executory Contracts and Unexpired Leases**

Any monetary amounts by which any Executory Contract or Unexpired Lease to be assumed or assigned hereunder is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtor upon assumption or assignment thereof, by payment of the default amount in Cash as and when due in the ordinary course or on such other terms as the parties to such Executory Contracts may otherwise agree. The Debtor may serve a notice on the Committee and parties to Executory Contracts or Unexpired Leases to be assumed or assigned reflecting the Debtor's or Reorganized Debtor's intention to assume or assign the Executory Contract or Unexpired Lease in connection with this Plan and setting forth the proposed cure amount (if any).

If a dispute regarding (1) the amount of any payments to cure a default, (2) the ability of the Debtor, the Reorganized Debtor, or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed or assigned or (3) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order or orders resolving the dispute and approving the assumption or assignment.

Assumption or assignment of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable cure amounts pursuant to this ARTICLE V.C shall result in the full release and satisfaction of any cure amounts, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assignment. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed or assigned in the Chapter 11 Case, including pursuant to the Confirmation Order, and for which any cure amounts have been fully paid pursuant to this ARTICLE V.C, shall be deemed disallowed and expunged as of the Confirmation Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VI.**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**A. Dates of Distributions**

Except as otherwise provided in this Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim or Equity Interest on the Effective Date, on the date that such Claim or Equity Interest becomes an Allowed Claim or Equity Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Equity Interest against the Debtor shall receive the full amount of the distributions that this Plan provides for Allowed Claims or Allowed Equity Interests in the applicable Class and in the manner provided herein. If any payment or act under this Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent there are Disputed Claims or Equity Interests, distributions on account of any such Disputed Claims or Equity Interests shall be made pursuant to the provisions provided in this Plan. Except as otherwise provided in this Plan, Holders of Claims and Equity Interests shall not be entitled to interest, dividends or accruals on the distributions provided for therein, regardless of whether distributions are delivered on or at any time after the Effective Date.

Upon the Effective Date, all Claims and Equity Interests against the Debtor shall be deemed fixed and adjusted pursuant to this Plan and none of the Debtor, the Reorganized Debtor, or the Claimant Trust will have liability on account of any Claims or Equity Interests except as set forth in this Plan and in the Confirmation Order. All payments and all distributions made by the Distribution Agent under this Plan shall be in full and final satisfaction, settlement and release of all Claims and Equity Interests against the Debtor and the Reorganized Debtor.

At the close of business on the Distribution Record Date, the transfer ledgers for the Claims against the Debtor and the Equity Interests in the Debtor shall be closed, and there shall be no further changes in the record holders of such Claims and Equity Interests. The Debtor, the Reorganized Debtor, the Trustees, and the Distribution Agent, and each of their respective agents, successors, and assigns shall have no obligation to recognize the transfer of any Claims against the Debtor or Equity Interests in the Debtor occurring after the Distribution Record Date and shall be entitled instead to recognize and deal for all purposes hereunder with only those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date irrespective of the number of distributions to be made under this Plan to such Persons or the date of such distributions.

**B. Distribution Agent**

Except as provided herein, all distributions under this Plan shall be made by the Claimant Trustee, as Distribution Agent, or by such other Entity designated by the Claimant Trustee, as a Distribution Agent on the Effective Date or thereafter. The Reorganized Debtor will be the Distribution Agent with respect to Claims in Class 1 through Class 7.

The Claimant Trustee, or such other Entity designated by the Claimant Trustee to be the Distribution Agent, shall not be required to give any bond or surety or other security for the performance of such Distribution Agent's duties unless otherwise ordered by the Bankruptcy Court.

The Distribution Agent shall be empowered to (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof.

The Distribution Agent shall not have any obligation to make a particular distribution to a specific Holder of an Allowed Claim if such Holder is also the Holder of a Disputed Claim.

**C. Cash Distributions**

Distributions of Cash may be made by wire transfer from a domestic bank, except that Cash payments made to foreign creditors may be made in such funds and by such means as the Distribution Agent determines are necessary or customary in a particular foreign jurisdiction.

**D. Disputed Claims Reserve**

On or prior to the Initial Distribution Date, the Claimant Trustee shall establish, fund and maintain the Disputed Claims Reserve(s) in the appropriate Disputed Claims Reserve Amounts on account of any Disputed Claims.

**E. Distributions from the Disputed Claims Reserve**

The Disputed Claims Reserve shall at all times hold Cash in an amount no less than the Disputed Claims Reserve Amount. To the extent a Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, within 30 days of the date on which such Disputed Claim becomes an Allowed Claim pursuant to the terms of this Plan, the Claimant Trustee shall distribute from the Disputed Claims Reserve to the Holder thereof any prior distributions, in Cash, that would have been made to such Allowed Claim if it had been Allowed as of the Effective Date. For the avoidance of doubt, each Holder of a Disputed Claim that subsequently becomes an Allowed Claim will also receive its Pro Rata share of the Claimant Trust Interests. If, upon the resolution of all Disputed Claims any Cash remains in the Disputed Claims Reserve, such Cash shall be transferred to the Claimant Trust and be deemed a Claimant Trust Asset.

**F. Rounding of Payments**

Whenever this Plan would otherwise call for, with respect to a particular Person, payment of a fraction of a dollar, the actual payment or distribution shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash to be distributed under this Plan remains undistributed as a result of the aforementioned rounding, such Cash or stock shall be treated as "Unclaimed Property" under this Plan.

**G. De Minimis Distribution**

Except as to any Allowed Claim that is Unimpaired under this Plan, none of the Debtor, the Reorganized Debtor, or the Distribution Agent shall have any obligation to make any Plan Distributions with a value of less than \$100, unless a written request therefor is received by the Distribution Agent from the relevant recipient at the addresses set forth in ARTICLE VI.J hereof within 120 days after the later of the (i) Effective Date and (ii) the date such Claim becomes an Allowed Claim. *De minimis* distributions for which no such request is timely received shall revert to the Claimant Trust. Upon such reversion, the relevant Allowed Claim (and any Claim on account of missed distributions) shall be automatically deemed satisfied, discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

**H. Distributions on Account of Allowed Claims**

Except as otherwise agreed by the Holder of a particular Claim or as provided in this Plan, all distributions shall be made pursuant to the terms of this Plan and the Confirmation Order. Except as otherwise provided in this Plan, distributions to any Holder of an Allowed Claim shall, to the extent applicable, be allocated first to the principal amount of any such Allowed Claim, as determined for U.S. federal income tax purposes and then, to the extent the consideration exceeds such amount, to the remainder of such Claim comprising accrued but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

**I. General Distribution Procedures**

The Distribution Agent shall make all distributions of Cash or other property required under this Plan, unless this Plan specifically provides otherwise. All Cash and other property held by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable, for ultimate distribution under this Plan shall not be subject to any claim by any Person.

**J. Address for Delivery of Distributions**

Distributions to Holders of Allowed Claims, to the extent provided for under this Plan, shall be made (1) at the addresses set forth in any written notices of address change delivered to the Debtor and the Distribution Agent; (2) at the address set forth on any Proofs of Claim Filed by such Holders (to the extent such Proofs of Claim are Filed in the Chapter 11 Case), (2), or (3) at the addresses in the Debtor's books and records.

If there is any conflict or discrepancy between the addresses set forth in (1) through (3) in the foregoing sentence, then (i) the address in Section (2) shall control; (ii) if (2) does not apply, the address in (1) shall control, and (iii) if (1) does not apply, the address in (3) shall control.

**K. Undeliverable Distributions and Unclaimed Property**

If the distribution to the Holder of any Allowed Claim is returned to the Reorganized Debtor or the Claimant Trust as undeliverable, no further distribution shall be made to such Holder, and Distribution Agent shall not have any obligation to make any further distribution to the Holder, unless and until the Distribution Agent is notified in writing of such Holder's then current address.

Any Entity that fails to claim any Cash within six months from the date upon which a distribution is first made to such Entity shall forfeit all rights to any distribution under this Plan and such Cash shall thereafter be deemed an Claimant Trust Asset in all respects and for all purposes. Entities that fail to claim Cash shall forfeit their rights thereto and shall have no claim whatsoever against the Debtor's Estate, the Reorganized Debtor, the Claimant Trust, or against any Holder of an Allowed Claim to whom distributions are made by the Distribution Agent.

**L. Withholding Taxes**

In connection with this Plan, to the extent applicable, the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions made pursuant to this Plan shall be subject to such withholding and reporting requirements. The Distribution Agent shall be entitled to deduct any U.S. federal, state or local withholding taxes from any Cash payments made with respect to Allowed Claims, as appropriate. As a condition to receiving any distribution under this Plan, the Distribution Agent may require that the Holder of an Allowed Claim entitled to receive a distribution pursuant to this Plan provide such Holder's taxpayer identification number and such other information and certification as may be deemed necessary for the Distribution Agent to comply with applicable tax reporting and withholding laws. If a Holder fails to comply with such a request within one year, such distribution shall be deemed an unclaimed distribution. Any amounts withheld pursuant hereto shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

**M. Setoffs**

The Distribution Agent may, to the extent permitted under applicable law, set off against any Allowed Claim and any distributions to be made pursuant to this Plan on account of such Allowed Claim, the claims, rights and causes of action of any nature that the Debtor, the Reorganized Debtor, or the Distribution Agent may hold against the Holder of such Allowed Claim that are not otherwise waived, released or compromised in accordance with this Plan; *provided, however*, that neither such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor, the Reorganized Debtor, or the Claimant Trustee of any such claims, rights and causes of action that the Debtor, the Reorganized Debtor, or Claimant Trustee possesses against such Holder. Any Holder of an Allowed Claim subject to such setoff reserves the right to challenge any such setoff in the Bankruptcy Court or any other court with jurisdiction with respect to such challenge.

**N. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any distribution pursuant to this Plan on account of an Allowed Claim evidenced by negotiable instruments, securities, or notes canceled pursuant to ARTICLE IV of this Plan, the Holder of such Claim will tender the applicable negotiable instruments, securities, or notes evidencing such Claim (or a sworn affidavit identifying the negotiable instruments, securities, or notes formerly held by such Holder and certifying that they have been lost), to the Distribution Agent unless waived in writing by the Distribution Agent.



**O. Lost, Stolen, Mutilated or Destroyed Securities**

In addition to any requirements under any applicable agreement and applicable law, any Holder of a Claim or Equity Interest evidenced by a security or note that has been lost, stolen, mutilated, or destroyed will, in lieu of surrendering such security or note to the extent required by this Plan, deliver to the Distribution Agent: (i) evidence reasonably satisfactory to the Distribution Agent of such loss, theft, mutilation, or destruction; and (ii) such security or indemnity as may be required by the Distribution Agent to hold such party harmless from any damages, liabilities, or costs incurred in treating such individual as a Holder of an Allowed Claim or Equity Interest. Upon compliance with ARTICLE VI.O of this Plan as determined by the Distribution Agent, by a Holder of a Claim evidenced by a security or note, such Holder will, for all purposes under this Plan, be deemed to have surrendered such security or note to the Distribution Agent.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Filing of Proofs of Claim**

Unless such Claim appeared in the Schedules and is not listed as disputed, contingent, or unliquidated, or such Claim has otherwise been Allowed or paid, each Holder of a Claim was required to file a Proof of Claim on or prior to the Bar Date.

**B. Disputed Claims**

Following the Effective Date, each of the Reorganized Debtor or the Claimant Trustee, as applicable, may File with the Bankruptcy Court an objection to the allowance of any Disputed Claim or Disputed Equity Interest, request the Bankruptcy Court subordinate any Claims to Subordinated Claims, or any other appropriate motion or adversary proceeding with respect to the foregoing by the Claims Objection Deadline or, at the discretion of the Reorganized Debtor or Claimant Trustee, as applicable, compromised, settled, withdrew or resolved without further order of the Bankruptcy Court, and (ii) unless otherwise provided in the Confirmation Order, the Reorganized Debtor or the Claimant Trust, as applicable, are authorized to settle, or withdraw any objections to, any Disputed Claim or Disputed Equity Interests following the Effective Date without further notice to creditors (other than the Entity holding such Disputed Claim or Disputed Equity Interest) or authorization of the Bankruptcy Court, in which event such Claim or Equity Interest shall be deemed to be an Allowed Claim or Equity Interest in the amount compromised for purposes of this Plan.

**C. Procedures Regarding Disputed Claims or Disputed Equity Interests**

No payment or other distribution or treatment shall be made on account of a Disputed Claim or Disputed Equity Interest unless and until such Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interests and the amount of such Allowed Claim or Equity Interest, as applicable, is determined by order of the Bankruptcy Court or by stipulation between the Reorganized Debtor or Claimant Trust, as applicable, and the Holder of the Claim or Equity Interest.



**D. Allowance of Claims and Equity Interests**

Following the date on which a Disputed Claim or Disputed Equity Interest becomes an Allowed Claim or Equity Interest after the Distribution Date, the Distribution Agent shall make a distribution to the Holder of such Allowed Claim or Equity Interest in accordance with the Plan.

1. Allowance of Claims

After the Effective Date and subject to the other provisions of this Plan, the Reorganized Debtor or the Claimant Trust, as applicable, will have and will retain any and all rights and defenses under bankruptcy or nonbankruptcy law that the Debtor had with respect to any Claim. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim or Equity Interest will become an Allowed Claim or Equity Interest unless and until such Claim or Equity Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered an order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim or Equity Interest.

2. Estimation

Subject to the other provisions of this Plan, the Debtor, prior to the Effective Date, and the Reorganized Debtor or the Claimant Trustee, as applicable, after the Effective Date, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim or Disputed Equity Interest pursuant to applicable law and in accordance with this Plan and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court will retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim or Disputed Equity Interest, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or Equity Interest or during the pendency of any appeal relating to any such objection. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims or Equity Interests may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The rights and objections of all parties are reserved in connection with any such estimation proceeding.

3. Disallowance of Claims

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims or Interests may not receive any distributions on account of such Claims or Interests until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court Order with respect thereto has been entered and all sums due, if any, to the Reorganized Debtor or the Claimant Trust, as applicable, by that Entity have been turned over or paid to the Reorganized Debtor or the Claimant Trust, as applicable.

**EXCEPT AS OTHERWISE PROVIDED HEREIN OR AS AGREED TO BY THE DEBTOR, REORGANIZED DEBTOR, OR CLAIMANT TRUSTEE, AS APPLICABLE,**

**ANY AND ALL PROOFS OF CLAIM FILED AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.**

**ARTICLE VIII.  
EFFECTIVENESS OF THIS PLAN**

**A. Conditions Precedent to the Effective Date**

The Effective Date of this Plan will be conditioned upon the satisfaction or waiver by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee with such consent not to be unreasonably withheld), pursuant to the provisions of ARTICLE VIII.B of this Plan of the following:

- This Plan and the Plan Documents, including the Claimant Trust Agreement and the Reorganized Limited Partnership Agreement, and all schedules, documents, supplements and exhibits to this Plan shall have been Filed in form and substance reasonably acceptable to the Debtor and the Committee.
- The Confirmation Order shall have become a Final Order and shall be in form and substance reasonably acceptable to the Debtor and the Committee. The Confirmation Order shall provide that, among other things, (i) the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee are authorized to take all actions necessary or appropriate to effectuate and consummate this Plan, including, without limitation, (a) entering into, implementing, effectuating, and consummating the contracts, instruments, releases, and other agreements or documents created in connection with or described in this Plan, (b) assuming the Executory Contracts and Unexpired Leases set forth in the Plan Supplement, (c) making all distributions and issuances as required under this Plan; and (d) entering into any transactions as set forth in the Plan Documents; (ii) the provisions of the Confirmation Order and this Plan are nonseverable and mutually dependent; (iii) the implementation of this Plan in accordance with its terms is authorized; (iv) pursuant to section 1146 of the Bankruptcy Code, the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with this Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of Assets contemplated under this Plan, shall not be subject to any Stamp or Similar Tax; and (v) the vesting of the Claimant Trust Assets in the Claimant Trust and the Reorganized Debtor Assets in the Reorganized Debtor, in each case as of the Effective Date free and clear of liens and claims to the fullest extent permissible under applicable law pursuant to section 1141(c) of the Bankruptcy Code except with respect to such Liens, Claims, charges and other encumbrances that are specifically preserved under this Plan upon the Effective Date.
- All documents and agreements necessary to implement this Plan, including without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust

Agreement, and the New GP LLC Documents, in each case in form and substance reasonably acceptable to the Debtor and the Committee, shall have (a) been tendered for delivery, and (b) been effected by, executed by, or otherwise deemed binding upon, all Entities party thereto and shall be in full force and effect. All conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.

- All authorizations, consents, actions, documents, approvals (including any governmental approvals), certificates and agreements necessary to implement this Plan, including, without limitation, the Reorganized Limited Partnership Agreement, the Claimant Trust Agreement, and the New GP LLC Documents, shall have been obtained, effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable laws and any applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain or prevent effectiveness or consummation of the Restructuring.
- The Debtor shall have obtained applicable directors' and officers' insurance coverage that is acceptable to each of the Debtor, the Committee, the Claimant Trust Oversight Committee, the Claimant Trustee and the Litigation Trustee.
- The Professional Fee Reserve shall be funded pursuant to this Plan in an amount determined by the Debtor in good faith.

#### **B. Waiver of Conditions**

The conditions to effectiveness of this Plan set forth in this ARTICLE VIII (other than that the Confirmation Order shall have been entered) may be waived in whole or in part by the Debtor (and, to the extent such condition requires the consent of the Committee, the consent of the Committee), without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or effectuate this Plan. The failure to satisfy or waive a condition to the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights will not be deemed a waiver of any other rights, and each right will be deemed an ongoing right that may be asserted at any time by the Debtor, the Reorganized Debtor, or the Claimant Trust, as applicable.

#### **C. Dissolution of the Committee**

On the Effective Date, the Committee will dissolve, and the members of the Committee and the Committee's Professionals will cease to have any role arising from or relating to the Chapter 11 Case, except in connection with final fee applications of Professionals for services rendered prior to the Effective Date (including the right to object thereto). The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee claims for any services rendered to the Committee or expenses incurred in the service of the Committee after the Effective Date, except for reasonable fees for services rendered, and actual and necessary costs incurred, in connection with any applications for allowance of Professional Fees pending on

the Effective Date or filed and served after the Effective Date pursuant to the Plan. Nothing in the Plan shall prohibit or limit the ability of the Debtor's or Committee's Professionals to represent either of the Trustees or to be compensated or reimbursed per the Plan and the Claimant Trust Agreement in connection with such representation.

**ARTICLE IX.**  
**EXCULPATION, INJUNCTION AND RELATED PROVISIONS**

**A. General**

Notwithstanding anything contained in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions and treatments under the Plan shall take into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

**B. Discharge of Claims**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any kind or nature whatsoever against the Debtor or any of its Assets or properties, and regardless of whether any property will have been distributed or retained pursuant to this Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor and its Estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

**C. Exculpation**

Subject in all respects to ARTICLE XII.D of this Plan, to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss, and liability for conduct occurring on or after the Petition Date in connection with or arising out of (i) the filing and administration of the Chapter 11 Case; (ii) the negotiation and pursuit of the Disclosure Statement, the Plan, or the solicitation of votes for, or confirmation of, the Plan; (iii) the funding or consummation of the Plan (including the Plan Supplement) or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Plan Distribution of any securities issued or to be issued pursuant to the Plan, including the Claimant Trust Interests, whether or not such Plan Distributions occur following the Effective Date; (iv) the implementation of the Plan; and (v) any negotiations, transactions, and documentation in connection with the foregoing clauses (i)-(iv); *provided, however*, the foregoing

will not apply to (a) any acts or omissions of an Exculpated Party arising out of or related to acts or omissions that constitute bad faith, fraud, gross negligence, criminal misconduct, or willful misconduct or (b) Strand or any Employee other than with respect to actions taken by such Entities from the date of appointment of the Independent Directors through the Effective Date. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, any other applicable law or rules, or any other provisions of this Plan, including ARTICLE IV.C.2, protecting such Exculpated Parties from liability.

**D. Releases by the Debtor**

On and after the Effective Date, each Released Party is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by the Debtor and the Estate, in each case on behalf of themselves and their respective successors, assigns, and representatives, including, but not limited to, the Claimant Trust and the Litigation Sub-Trust from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort or otherwise, that the Debtor or the Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim against, or Interest in, a Debtor or other Person.

Notwithstanding anything contained herein to the contrary, the foregoing release does not release: (i) any obligations of any party under the Plan or any document, instrument, or agreement executed to implement the Plan, (ii) the rights or obligations of any current employee of the Debtor under any employment agreement or plan, (iii) the rights of the Debtor with respect to any confidentiality provisions or covenants restricting competition in favor of the Debtor under any employment agreement with a current or former employee of the Debtor, (iv) any Avoidance Actions, or (v) any Causes of Action arising from willful misconduct, criminal misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

Notwithstanding anything herein to the contrary, any release provided pursuant to this ARTICLE IX.D (i) with respect to a Senior Employee, is conditioned in all respects on (a) such Senior Employee executing a Senior Employee Stipulation on or prior to the Effective Date and (b) the reduction of such Senior Employee's Allowed Claim as set forth in the Senior Employee Stipulation (such amount, the "Reduced Employee Claim"), and (ii) with respect to any Employee, including a Senior Employee, shall be deemed null and void and of no force and effect (1) if there is more than one member of the Claimant Trust Oversight Committee who does not represent entities holding a Disputed or Allowed Claim (the "Independent Members"), the Claimant Trustee and the Independent Members by majority vote determine or (2) if there is only one Independent Member, the Independent Member after discussion with the Claimant Trustee, determines (in each case after discussing with the full Claimant Trust Oversight Committee) that such Employee (regardless of whether the Employee is then currently employed by the Debtor, the Reorganized Debtor, or the Claimant Trustee):

- sues, attempts to sue, or threatens or works with or assists any entity or person to sue, attempt to sue, or threaten the Reorganized Debtor, the Claimant Trust, the Litigation



Sub-Trust, or any of their respective employees or agents, or any Released Party on or in connection with any claim or cause of action arising prior to the Effective Date,

- has taken any action that, impairs or harms the value of the Claimant Trust Assets or the Reorganized Debtor Assets, or
- (x) upon the request of the Claimant Trustee, has failed to provide reasonable assistance in good faith to the Claimant Trustee or the Reorganized Debtor with respect to (1) the monetization of the Claimant Trust Assets or Reorganized Debtor Assets, as applicable, or (2) the resolution of Claims, or (y) has taken any action that impedes or frustrates the Claimant Trustee or the Reorganized Debtor with respect to any of the foregoing.

*Provided, however,* that the release provided pursuant to this ARTICLE IX.D will vest and the Employee will be indefeasibly released pursuant to this ARTICLE IX.D if such Employee's release has not been deemed null and void and of no force and effect on or prior to the date that is the date of dissolution of the Claimant Trust pursuant to the Claimant Trust Agreement.

By executing the Senior Employee Stipulation embodying this release, each Senior Employee acknowledges and agrees, without limitation, to the terms of this release and the tolling agreement contained in the Senior Employee Stipulation.

The provisions of this release and the execution of a Senior Employee Stipulation will not in any way prevent or limit any Employee from (i) prosecuting its Claims, if any, against the Debtor's Estate, (ii) defending him or herself against any claims or causes of action brought against the Employee by a third party, or (iii) assisting other persons in defending themselves from any Estate Claims brought by the Litigation Trustee (but only with respect to Estate Claims brought by the Litigation Trustee and not collection or other actions brought by the Claimant Trustee).

#### **E. Preservation of Rights of Action**

##### **1. Maintenance of Causes of Action**

Except as otherwise provided in this Plan, after the Effective Date, the Reorganized Debtor or the Claimant Trust will retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action included in the Reorganized Debtor Assets or Claimant Trust Assets, as applicable, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case and, as the successors in interest to the Debtor and the Estate, may, and will have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of the Causes of Action without notice to or approval from the Bankruptcy Court.

##### **2. Preservation of All Causes of Action Not Expressly Settled or Released**

Unless a Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in this Plan or any Final Order (including, without limitation, the Confirmation Order), such Cause of Action is expressly reserved for later adjudication by the Reorganized Debtor or Claimant Trust, as applicable (including,

without limitation, Causes of Action not specifically identified or of which the Debtor may presently be unaware or that may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches will apply to such Causes of Action as a consequence of the confirmation, effectiveness, or consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except where such Causes of Action have been expressly released in this Plan or any other Final Order (including, without limitation, the Confirmation Order). In addition, the right of the Reorganized Debtor or the Claimant Trust to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits, is expressly reserved.

**F. Injunction**

**Upon entry of the Confirmation Order, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, from taking any actions to interfere with the implementation or consummation of the Plan.**

**Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court, all Enjoined Parties are and shall be permanently enjoined, on and after the Effective Date, with respect to any Claims and Equity Interests, from directly or indirectly (i) commencing, conducting, or continuing in any manner any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor or the property of the Debtor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering, enforcing, or attempting to recover or enforce, by any manner or means, any judgment, award, decree, or order against the Debtor or the property of the Debtor, (iii) creating, perfecting, or otherwise enforcing in any manner, any security interest, lien or encumbrance of any kind against the Debtor or the property of the Debtor, (iv) asserting any right of setoff, directly or indirectly, against any obligation due to the Debtor or against property or interests in property of the Debtor, except to the limited extent permitted under Sections 553 and 1141 of the Bankruptcy Code, and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

**The injunctions set forth herein shall extend to, and apply to any act of the type set forth in any of clauses (i)-(v) of the immediately preceding paragraph against any successors of the Debtor, including, but not limited to, the Reorganized Debtor, the Litigation Sub-Trust, and the Claimant Trust and their respective property and interests in property.**

**Subject in all respects to ARTICLE XII.D, no Enjoined Party may commence or pursue a claim or cause of action of any kind against any Protected Party that arose or arises from or is related to the Chapter 11 Case, the negotiation of the Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, the administration of the Claimant Trust or the Litigation Sub-Trust, or the transactions in furtherance of the foregoing without the Bankruptcy Court**



(i) first determining, after notice and a hearing, that such claim or cause of action represents a colorable claim of any kind, including, but not limited to, negligence, bad faith, criminal misconduct, willful misconduct, fraud, or gross negligence against a Protected Party and (ii) specifically authorizing such Enjoined Party to bring such claim or cause of action against any such Protected Party; *provided, however*, the foregoing will not apply to a claim or cause of action against Strand or against any Employee other than with respect to actions taken, respectively, by Strand or by such Employee from the date of appointment of the Independent Directors through the Effective Date. The Bankruptcy Court will have sole and exclusive jurisdiction to determine whether a claim or cause of action is colorable and, only to the extent legally permissible and as provided for in ARTICLE XI, shall have jurisdiction to adjudicate the underlying colorable claim or cause of action.

**G. Duration of Injunctions and Stays**

ARTICLE II. Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, (i) all injunctions and stays entered during the Chapter 11 Case and in existence on the Confirmation Date shall remain in full force and effect in accordance with their terms; and (ii) the automatic stay arising under section 362 of the Bankruptcy Code shall remain in full force and effect subject to Section 362(c) of the Bankruptcy Code, and to the extent necessary if the Debtor does not receive a discharge, the Court will enter an equivalent order under Section 105.

**H. Continuance of January 9 Order**

Unless otherwise provided in this Plan, in the Confirmation Order, or in a Final Order of the Bankruptcy Court, the restrictions set forth in paragraphs 9 and 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course*, entered by the Bankruptcy Court on January 9, 2020 [D.I. 339] shall remain in full force and effect following the Effective Date.

**ARTICLE X.  
BINDING NATURE OF PLAN**

On the Effective Date, and effective as of the Effective Date, the Plan, including, without limitation, the provisions in ARTICLE IX, will bind, and will be deemed binding upon, all Holders of Claims against and Equity Interests in the Debtor and such Holder's respective successors and assigns, to the maximum extent permitted by applicable law, notwithstanding whether or not such Holder will receive or retain any property or interest in property under the Plan. All Claims and Debts shall be fixed and adjusted pursuant to this Plan. The Plan shall also bind any taxing authority, recorder of deeds, or similar official for any county, state, Governmental Unit or parish in which any instrument related to the Plan or related to any transaction contemplated thereby is to be recorded with respect to any taxes of the kind specified in Bankruptcy Code section 1146(a).

**ARTICLE XI.**  
**RETENTION OF JURISDICTION**

Pursuant to sections 105 and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Reorganized Debtor, the Claimant Trust, and this Plan to the maximum extent legally permissible, including, without limitation, jurisdiction to:

- allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured, unsecured, or subordinated status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the allowance or priority of any Claim or Equity Interest;
- grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; *provided, however*, that, from and after the Effective Date, the Reorganized Debtor shall pay Professionals in the ordinary course of business for any work performed after the Effective Date subject to the terms of this Plan and the Confirmation Order, and such payment shall not be subject to the approval of the Bankruptcy Court;
- resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor, Reorganized Debtor, or Claimant Trust may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, any dispute regarding whether a contract or lease is or was executory or expired;
- make any determination with respect to a claim or cause of action against a Protected Party as set forth in ARTICLE IX;
- resolve any claim or cause of action against an Exculpated Party or Protected Party arising from or related to the Chapter 11 Case, the negotiation of this Plan, the administration of the Plan or property to be distributed under the Plan, the wind down of the business of the Debtor or Reorganized Debtor, or the transactions in furtherance of the foregoing;
- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any sale, disposition, assignment or other transfer of the Reorganized Debtor Assets or Claimant Trust Assets, including any break-up compensation or expense reimbursement that may be requested by a purchaser thereof; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;

- if requested by the Reorganized Debtor or the Claimant Trustee, authorize, approve, and allow any borrowing or the incurrence of indebtedness, whether secured or unsecured by the Reorganized Debtor or Claimant Trust; *provided, however*, that neither the Reorganized Debtor nor the Claimant Trustee shall be required to seek such authority or approval from the Bankruptcy Court unless otherwise specifically required by this Plan or the Confirmation Order;
- resolve any issues related to any matters adjudicated in the Chapter 11 Case;
- ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of this Plan;
- decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action (including Estate Claims) that are pending as of the Effective Date or that may be commenced in the future, including approval of any settlements, compromises, or other resolutions as may be requested by the Debtor, the Reorganized Debtor, the Claimant Trustee, or the Litigation Trustee whether under Bankruptcy Rule 9019 or otherwise, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor, the Claimant Trustee, or Litigation Trustee after the Effective Date, provided that the Reorganized Debtor, the Claimant Trustee, and the Litigation Trustee shall reserve the right to commence actions in all appropriate forums and jurisdictions;
- enter such orders as may be necessary or appropriate to implement, effectuate, or consummate the provisions of this Plan, the Plan Documents, and all other contracts, instruments, releases, and other agreements or documents adopted in connection with this Plan, the Plan Documents, or the Disclosure Statement;
- resolve any cases, controversies, suits or disputes that may arise in connection with the implementation, effectiveness, consummation, interpretation, or enforcement of this Plan or any Entity's obligations incurred in connection with this Plan;
- issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, effectiveness, consummation, or enforcement of this Plan, except as otherwise provided in this Plan;
- enforce the terms and conditions of this Plan and the Confirmation Order;
- resolve any cases, controversies, suits or disputes with respect to the release, exculpation, indemnification, and other provisions contained herein and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
- enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

- resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents, or any contract, instrument, release, indenture or other agreement or document adopted in connection with this Plan or the Disclosure Statement; and
- enter an order concluding or closing the Chapter 11 Case after the Effective Date.

**ARTICLE XII.**  
**MISCELLANEOUS PROVISIONS**

**A. Payment of Statutory Fees and Filing of Reports**

All outstanding Statutory Fees shall be paid on the Effective Date. All such fees payable, and all such fees that become due and payable, after the Effective Date shall be paid by the Reorganized Debtor when due or as soon thereafter as practicable until the Chapter 11 Case is closed, converted, or dismissed. The Claimant Trustee shall File all quarterly reports due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. After the Effective Date, the Claimant Trustee shall File with the Bankruptcy Court quarterly reports when they become due, in a form reasonably acceptable to the U.S. Trustee. The Reorganized Debtor shall remain obligated to pay Statutory Fees to the Office of the U.S. Trustee until the earliest of the Debtor's case being closed, dismissed, or converted to a case under chapter 7 of the Bankruptcy Code.

**B. Modification of Plan**

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order with the consent of the Committee, such consent not to be unreasonably withheld; and (b) after the entry of the Confirmation Order, the Debtor may, after notice and hearing and entry of an order of the Bankruptcy Court, amend or modify this Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan.

**C. Revocation of Plan**

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date and to File a subsequent chapter 11 plan with the consent of the Committee. If the Debtor revokes or withdraws this Plan prior to the Confirmation Date, then: (i) this Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in this Plan, assumption of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (iii) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

**D. Obligations Not Changed**

Notwithstanding anything in this Plan to the contrary, nothing herein will affect or otherwise limit or release any non-Debtor Entity's (including any Exculpated Party's) duties or obligations, including any contractual and indemnification obligations, to the Debtor, the Reorganized Debtor, or any other Entity whether arising under contract, statute, or otherwise.

**E. Entire Agreement**

Except as otherwise described herein, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**F. Closing of Chapter 11 Case**

The Claimant Trustee shall, after the Effective Date and promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

**G. Successors and Assigns**

This Plan shall be binding upon and inure to the benefit of the Debtor and its successors and assigns, including, without limitation, the Reorganized Debtor and the Claimant Trustee. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

**H. Reservation of Rights**

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and the Effective Date occurs. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtor, the Reorganized Debtor, the Claimant Trustee, or any other Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtor, the Reorganized Debtor, or the Claimant Trustee with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

Neither the exclusion or inclusion by the Debtor of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Documents, nor anything contained in this Plan, will constitute an admission by the Debtor that any such contract or lease is or is not an executory contract or lease or that the Debtor, the Reorganized Debtor, the Claimant Trustee, or their respective Affiliates has any liability thereunder.

Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor, the Reorganized Debtor, or the Claimant Trustee under any executory or non-executory contract.

Nothing in this Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, under any executory or non-executory contract or lease.

If there is a dispute regarding whether a contract or lease is or was executory at the time of its assumption under this Plan, the Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract.

**I. Further Assurances**

The Debtor, the Reorganized Debtor, or the Claimant Trustee, as applicable, all Holders of Claims and Equity Interests receiving distributions hereunder, and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order. On or before the Effective Date, the Debtor shall File with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

**J. Severability**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Service of Documents**

All notices, requests, and demands to or upon the Debtor, the Reorganized Debtor, or the Claimant Trustee to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered addressed as follows:

**If to the Claimant Trust:**

Highland Claimant Trust  
c/o Highland Capital Management, L.P.  
300 Crescent Court, Suite 700



Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**If to the Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**If to the Reorganized Debtor:**

Highland Capital Management, L.P.  
300 Crescent Court, Suite 700  
Dallas, Texas 75201  
Attention: James P. Seery, Jr.

**with copies to:**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Attn: Jeffrey N. Pomerantz, Esq.  
Ira D. Kharasch, Esq.  
Gregory V. Demo, Esq.

**L. Exemption from Certain Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code**

To the extent permitted by applicable law, pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate federal, state or local governmental officials or agents or taxing authority to forego the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to



evidence and implement the provisions of and the distributions to be made under this Plan; (ii) the maintenance or creation of security or any Lien as contemplated by this Plan; and (iii) assignments, sales, or transfers executed in connection with any transaction occurring under this Plan.

**M. Governing Law**

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that an exhibit or schedule to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Texas, without giving effect to the principles of conflicts of law of such jurisdiction; *provided, however*, that corporate governance matters relating to the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trust, as applicable, shall be governed by the laws of the state of organization of the Debtor, the Reorganized Debtor, New GP LLC, or the Claimant Trustee, as applicable.

**N. Tax Reporting and Compliance**

The Debtor is hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtor is for all taxable periods ending after the Petition Date through, and including, the Effective Date.

**O. Exhibits and Schedules**

All exhibits and schedules to this Plan, if any, including the Exhibits and the Plan Documents, are incorporated and are a part of this Plan as if set forth in full herein.

**P. Controlling Document**

In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and of the Confirmation Order, on the other hand, shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided, however*, that if there is determined to be any inconsistency between any provision of this Plan, the Disclosure Statement, and any Plan Document, on the one hand, and any provision of the Confirmation Order, on the other hand, that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan, the Disclosure Statement, and the Plan Documents, as applicable.

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Dated: January 22, 2021

Respectfully submitted,

**HIGHLAND CAPITAL MANAGEMENT, L.P.**

By: 

James P. Seery, Jr.  
Chief Executive Officer and Chief Restructuring  
Officer

Prepared by:

**PACHULSKI STANG ZIEHL & JONES LLP**

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*Counsel for the Debtor and Debtor-in-Possession*

**Exhibit B**

**Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

### **Schedule of CLO Management Agreements and Related Contracts to Be Assumed**

1. Servicing Agreement, dated December 20, 2007, by and among Greenbriar CLO, Ltd., and Highland Capital Management, L.P.
2. Investment Management Agreement, dated November 1, 2007, by and between Longhorn Credit Funding, LLC, and Highland Capital Management, L.P. (as amended)
3. Reference Portfolio Management Agreement, dated August 1, 2016, by and between Highland Capital Management, L.P., and Valhalla CLO, Ltd.
4. Collateral Servicing Agreement, dated December 20, 2006, by and among Highland Park CDO I, Ltd., and Highland Capital Management, L.P.
5. Portfolio Management Agreement, dated March 15, 2005, by and among Southfork CLO Ltd., and Highland Capital Management, L.P.
6. Amended and Restated Portfolio Management Agreement, dated November 30, 2005, by and among Jasper CLO Ltd., and Highland Capital Management, L.P.
7. Servicing Agreement, dated May 31, 2007, by and among Westchester CLO, Ltd., and Highland Capital Management, L.P.
8. Servicing Agreement, dated May 10, 2006, by and among Rockwall CDO Ltd. and Highland Capital Management, L.P. (as amended)
9. Portfolio Management Agreement, dated December 8, 2005, by and between Liberty CLO, Ltd., and Highland Capital Management, L.P.
10. Servicing Agreement, dated March 27, 2008, by and among Aberdeen Loan Funding, Ltd., and Highland Capital Management, L.P.
11. Servicing Agreement, dated May 9, 2007, by and among Rockwall CDO II Ltd. and Highland Capital Management, L.P.
12. Collateral Management Agreement, by and between, Highland Loan Funding V Ltd. and Highland Capital Management, L.P., dated August 1, 2001.
13. Collateral Management Agreement, dated August 18, 1999, by and between Highland Legacy Limited and Highland Capital Management, L.P.
14. Servicing Agreement, dated November 30, 2006, by and among Grayson CLO Ltd., and Highland Capital Management, L.P. (as amended)
15. Servicing Agreement, dated October 25, 2007, by and among Stratford CLO Ltd., and Highland Capital Management, L.P.
16. Servicing Agreement, dated August 3, 2006, by and among Red River CLO Ltd., and Highland Capital Management, L.P. (as amended)
17. Servicing Agreement, dated December 21, 2006, by and among Brentwood CLO, Ltd., and Highland Capital Management, L.P.
18. Servicing Agreement, dated March 13, 2007, by and among Eastland CLO Ltd., and Highland Capital Management, L.P.

19. Portfolio Management, Agreement, dated October 13, 2005, by and among Gleneagles CLO, Ltd., and Highland Capital Management, L.P.
20. Members' Agreement and Amendment, dated November 15, 2017, by and between Highland CLO Funding, Ltd. and Highland Capital Management, L.P.
21. Collateral Management Agreement, dated May 19, 1998, by and between Pam Capital Funding LP, Ranger Asset Mgt LP and Highland Capital Management, L.P.
22. Collateral Management Agreement, dated August 6, 1997, by and between Pamco Cayman Ltd., Ranger Asset Mgt LP and Highland Capital Management, L.P.
23. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Red River CLO Ltd. et al
24. Interim Collateral Management Agreement, June 15, 2005, between Highland Capital Management, L.P. and Rockwall CDO Ltd
25. Amendment No. 1 to Servicing Agreement, October 2, 2007, between Highland Capital Management, L.P. and Rockwall CDO Ltd
26. Collateral Servicing Agreement dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.; The Bank of New York Trust Company, National Association
27. Representations and Warranties Agreement, dated December 20, 2006, between Highland Capital Management, L.P. and Highland Park CDO I, Ltd.
28. Collateral Administration Agreement, dated March 27, 2008, between Highland Capital Management, L.P. and Aberdeen Loan Funding, Ltd.; State Street Bank and Trust Company
29. Collateral Administration Agreement, dated December 20, 2007, between Highland Capital Management, L.P. and Greenbriar CLO, Ltd.; State Street Bank and Trust Company
30. Collateral Acquisition Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd
31. Collateral Administration Agreement, dated March 13, 2007, between Highland Capital Management, L.P. and Eastland CLO, Ltd. and Investors Bank and Trust Company
32. Collateral Administration Agreement, dated October 13, 2005, between Highland Capital Management, L.P. and Gleneagles CLO, Ltd.; JPMorgan Chase Bank, National Association
33. Collateral Acquisition Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.
34. Collateral Administration Agreement, dated November 30, 2006, between Highland Capital Management, L.P. and Grayson CLO, Ltd.; Investors Bank & Trust Company
35. Collateral Acquisition Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.

36. Collateral Administration Agreement, dated August 3, 2006, between Highland Capital Management, L.P. and Red River CLO, Ltd.; U.S. Bank National Association
37. Master Warehousing and Participation Agreement, dated April 19, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company
38. Master Warehousing and Participation Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
39. Master Warehousing and Participation Agreement (Amendment No. 2), dated May 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
40. Master Warehousing and Participation Agreement (Amendment No. 1), dated April 12, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
41. Master Warehousing and Participation Agreement (Amendment No. 3), dated June 22, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
42. Master Warehousing and Participation Agreement (Amendment No. 4), dated July 17, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; MMP-5 Funding, LLC; IXIS Financial Products Inc.
43. Collateral Administration Agreement, dated February 2, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; U.S. Bank National Association; IXIS Financial Products Inc.
44. Collateral Administration Agreement, dated April 18, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Highland Special Opportunities Holding Company; U.S. Bank National Association
45. Master Participation Agreement, dated June 5, 2006, between Highland Capital Management, L.P. and Red River CLO Ltd.; Grand Central Asset Trust
46. A&R Asset Acquisition Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Smith Barney Inc.; Highland Loan Funding V Ltd.
47. A&R Master Participation Agreement, dated July 18, 2001, between Highland Capital Management, L.P. and Salomon Brothers Holding Company; Highland Loan Funding V Ltd.
48. Collateral Acquisition Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.
49. Collateral Administration Agreement, dated June 29, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd.; JPMorgan Chase Bank, National Association
50. Master Warehousing and Participation Agreement, dated March 24, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.

51. Master Warehousing and Participation Agreement (Amendment No. 1), dated May 16, 2005, between Highland Capital Management, L.P. and Jasper CLO Ltd; MMP-5 Funding, LLC; and IXIS Financial Products Inc.
52. Collateral Administration Agreement, dated December 8, 2005, between Highland Capital Management, L.P. and Liberty CLO Ltd.
53. Collateral Administration Agreement, dated May 10, 2006, between Highland Capital Management, L.P. and Rockwall CDO Ltd; JPMorgan Chase Bank, National Association
54. Collateral Administration Agreement, dated May 9, 2007, between Highland Capital Management, L.P. and Rockwall CDO II, Ltd.; Investors Bank & Trust Company
55. Collateral Administration Agreement, dated March 15, 2005, between Highland Capital Management, L.P. and Southfork CLO Ltd.; JPMorgan Chase Bank, National Association
56. Collateral Administration Agreement, dated October 25, 2007, between Highland Capital Management, L.P. and Stratford CLO Ltd.; State Street
57. Collateral Administration Agreement, dated August 18, 2004, between Highland Capital Management, L.P. and Valhalla CLO, Ltd.; JPMorgan Chase Bank
58. Collateral Acquisition Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.
59. Collateral Administration Agreement, dated May 31, 2007, between Highland Capital Management, L.P. and Westchester CLO, Ltd.; Investors Bank & Trust Company
60. Collateral Administration Agreement, dated December 21, 2006, between Highland Capital Management, L.P. and Brentwood CLO, Ltd.; Investors Bank & Trust Company



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*Counsel for Highland Capital Management, L.P.*

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

-----  
In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Debtor.  
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§  
§  
§  
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Chapter 11

Case No. 19-34054-sgj11

**DEBTOR’S MOTION FOR AN ORDER REQUIRING THE VIOLATORS TO SHOW  
CAUSE WHY THEY SHOULD NOT BE HELD IN CIVIL CONTEMPT FOR  
VIOLATING TWO COURT ORDERS**

Highland Capital Management, L.P., the debtor and debtor-in-possession (the “Debtor” or “Highland”) in the above-captioned chapter 11 case (“Bankruptcy Case”), by and through its

<sup>1</sup> The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

undersigned counsel, files this motion (the “Motion”) seeking entry of an order requiring The Charitable DAF Fund, L.P. (“The DAF”), CLO Holdco, Ltd. (“CLO Holdco”), the persons who authorized The DAF and CLO Holdco, respectively (together, the “Authorizing Persons”) to file the Seery Motion (as defined below) in the DAF Action (as defined below), and Sbaiti & Company PLLC (“Sbaiti & Co.” and together with The DAF, CLO Holdco, and the Authorizing Persons, the “Violators”), counsel to The DAF and CLO Holdco in the DAF Action, to show cause why each of them should not be held in civil contempt for violating the Court’s: (a) *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Docket No. 339], and (b) *Order Approving Debtor’s Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854] (together, the “Orders”). In support of its Motion, the Debtor states as follows:

#### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334(b). The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.
3. The predicates for the relief requested in the Motion are sections 105(a) and 362(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 7065 and 7001 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

#### **RELIEF REQUESTED**

4. The Debtor requests that this Court issue the proposed form of order attached as **Exhibit A** (the “Proposed Order”), pursuant to sections 105(a) and 362(a) of the Bankruptcy Code and Rules 7001 and 7065 of the Bankruptcy Rules.

5. For the reasons set forth more fully in the *Debtor’s Memorandum of Law in Support of Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* (the “Memorandum of Law”), filed contemporaneously with this Motion, the Debtor requests that the Court: (a) find and hold each of the Violators in contempt of court; (b) direct the Violators, jointly and severally, to pay the Debtor’s estate an amount of money equal to two (2) times the Debtor’s actual expenses incurred in bringing this Motion, payable within three (3) calendar days of presentment of an itemized list of expenses; (c) impose a penalty of three (3) times the Debtor’s actual expenses incurred in connection with any future violation of any order of this Court (including filing any motion in the District Court to name Mr. Seery as a defendant without seeking and obtaining this Court’s prior approval, as required under the Orders), and (d) grant the Debtor such other and further relief as the Court deems just and proper under the circumstances.

6. In accordance with Rule 7007-1 of the *Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas* (the “Local Rules”), contemporaneously herewith and in support of this Motion, the Debtor is filing: (a) its Memorandum of Law, and (b) the *Declaration of John A. Morris in Support of the Debtor’s Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* (the “Morris Declaration”) together with the exhibits annexed thereto.

7. Based on the exhibits annexed to the Morris Declaration, and the arguments contained in the Memorandum of Law, the Debtor is entitled to the relief requested herein as set forth in the Proposed Order.

8. Notice of this Motion has been provided to all parties. The Debtor submits that no other or further notice need be provided.

WHEREFORE, the Debtor respectfully requests that the Court (i) enter the Proposed Order substantially in the formed annexed hereto as **Exhibit A** granting the relief requested herein, and (ii) grant the Debtor such other and further relief as the Court may deem proper.

Dated: April 23, 2021.

**PACHULSKI STANG ZIEHL & JONES LLP**

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-and-

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*/s/ Zachery Z. Annable*

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*Counsel for Highland Capital Management, L.P.*

**EXHIBIT A**

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

-----  
In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>2</sup>

Debtor.  
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Chapter 11

Case No. 19-34054-sgj11

**ORDER GRANTING DEBTOR'S MOTION FOR AN ORDER REQUIRING THE  
VIOLATORS TO SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CIVIL  
CONTEMPT FOR VIOLATING TWO COURT ORDERS**

Having considered (a) the *Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* [Docket No. \_\_\_] (the "Motion"),<sup>3</sup> (b) the *Debtor's Memorandum of Law in Support of Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for*

<sup>2</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

<sup>3</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Memorandum of Law.



*Violating Two Court* [Docket No. \_\_\_] (the “Memorandum of Law”), (c) the exhibits annexed to the *Declaration of John A. Morris in Support of the Debtor’s Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* [Docket No. \_\_\_] (the “Morris Declaration”), and (d) all prior proceedings relating to this matter, including the proceedings that led to the entry of each of the Orders and the Approval Order; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that sanctions is warranted under sections 105(a) and 362(a) of the Bankruptcy Code and that the relief requested in the Motion is in the best interests of the Debtor’s estate, its creditors, and other parties-in-interest; and this Court having found that the Debtor’s notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion establish good cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor and for the reasons set forth in the record on this Motion, it is **HEREBY ORDERED THAT**:

1. The Motion is **GRANTED** as set forth herein.
2. The DAF, CLO Holdco, and Sbaiti & Co. shall show cause before this Court on [ ], **May [ ], 2021 at 9:30 a.m. (Central Time)** why an order should not be granted: (a) finding and holding each of the Violators in contempt of court; (b) directing the Violators, jointly and severally, to pay the Debtor’s estate an amount of money equal to two (2) times the Debtor’s actual expenses incurred in bringing this Motion, payable within three (3) calendar days of presentment of an

itemized list of expenses; (c) imposing a penalty of three (3) times the Debtor's actual expenses incurred in connection with any future violation of any order of this Court (including filing any motion in the District Court to name Mr. Seery as a defendant without seeking and obtaining this Court's prior approval, as required under the Orders), and (d) granting the Debtor such other and further relief as the Court deems just and proper under the circumstances.

3. The Court shall retain exclusive jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

**### END OF ORDER ###**

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

<b>In Re: Highland Capital Management, LP</b>	§	Case No. <b>19-34054-SGJ-11</b>
The Charitable DAF Fund LP, et al	§	
Appellant	§	<b>21-03067</b>
vs.	§	
<b>Highland Capital Management, L.P</b>	§	<b>3:21-CV-03129-N</b>
Appellee	§	

**[81] Order denying motion to stay Entered on 12/07/2021**  
**APPELLANT RECORD**  
**VOLUME 12**

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

In re:	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
	§	
CHARITABLE DAF FUND, L.P. AND CLO	§	
HOLDCO, LTD., DIRECTLY AND DERIVATIVELY	§	
	§	
Plaintiffs,	§	Adversary Proceeding No.
	§	
vs.	§	21-03067-sgj11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
HIGHLAND HCF ADVISOR, LTD., AND	§	
HIGHLAND CLO FUNDING LTD., NOMINALLY	§	
	§	
Defendant.	§	
	§	

*INDEX*

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

Pursuant to Rules 8009(a)(1)(A)-(B) and (a)(4) of the Federal Rules of Bankruptcy Procedure, The Charitable DAF Fund, L.P. and CLO Holdco, Ltd. ("Appellants") hereby designate the following items to be included in the record and identify the following issues with respect to

their appeal of the Order Denying Motion to Stay which was entered by the United States Bankruptcy Court for the Northern District of Texas on December 7, 2021.

**I. STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Whether the Bankruptcy Court erred in denying Plaintiffs' Motion to Stay, and continuing to determine the case on the merits, and/or refusing to withdraw the reference.

**II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

1. Notice of Appeal for Bankruptcy Case Adversary Proceeding No. 21-03067-sgj11 [Doc. 86].
2. The judgment, order, or decree appealed from: Order Denying Motion to Stay [Doc. 81].
3. Docket Sheet kept by the Bankruptcy Clerk.
4. Documents listed below and as described in the Docket Sheet for Bankruptcy Case Proceeding No. 21-03067-sgj.

No.	Date Filed	Docket No.	Description/Document Text
1	09/29/2021	1	(36 pgs; 3 docs) Adversary case 21-03067. ORDER REFERRING CASE NUMBER 21-CV-0842-B from U.S District Court for the Northern District of Texas, Dallas Division to U.S. Bankruptcy Court for Northern District of Texas, Dallas Division. Complaint by Charitable DAF Fund, LP, CLO Holdco, Ltd. against Highland Capital Management, LP, Highland HCF Advisor Ltd., Highland CLO Funding, Ltd. Fee Amount \$350 (Attachments: # 1 Original Complaint # 2 Docket Sheet from 3:20-cv-0842-B). Nature(s) of suit: 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)). (Okafor, M.)
2	09/29/2021 (04/13/2021)	2	(1 pg) Supplemental Document (cover sheet) by CLO Holdco Ltd., Charitable DAF Fund (RE: related document(s) 1 Adversary case 21-03067) [ORIGINALLY FILED IN 21-CV-0842 AS #2 ON 04/13/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
3	09/29/2021 (08/26/2021)	55	(6 pgs) MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021)

Vol. 2			[ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000522	4 09/29/2021 (09/10/2021)	60	(10 pgs) RESPONSE filed by Highland Capital Management LP re: 55 MOTION to Stay (Annable, Zachery) (Entered: 09/10/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #60 ON 09/10/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)
000532	5 10/19/2021	66	(5 pgs) Notice of hearing filed by Defendant Highland Capital Management, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding filed by Defendant Highland Capital Management, LP, 47 Motion to strike document filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd., 55 Motion to abate filed by Plaintiff Charitable DAF Fund, LP, Plaintiff CLO Holdco, Ltd.). Hearing to be held on 11/23/2021 at 09:30 AM at https://us-courts.webex.com/meet/jerniga for 26 and for 47 and for 55, (Annable, Zachery)
000537	6 11/18/2021	69	(21 pgs; 2 docs) Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint)) filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (Attachments: # 1 Exhibit A Motion to Withdraw Reference) (Sbaiti, Mazin)
000558 Thru Vol. 8	7 11/22/2021	70	(1310 pgs; 2 docs) Witness and Exhibit List for <i>Hearing on November 23, 2021</i> filed by Defendant Highland Capital Management, LP (RE: related document(s) 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Attachments: # 1 Exhibits 1-30) (Hayward, Melissa)
Vol. 9 001868	8 11/22/2021	72	(2 pgs) Witness List filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) 26 Motion to dismiss adversary proceeding, 47 Motion to strike (related document(s): 43 Document), 55 Motion to abate (related document(s) 1 Complaint), 69 Motion to abate <i>Plaintiffs' Amended Motion to Stay All Proceedings</i> (related document(s) 55 Motion to abate (related document(s) 1 Complaint))). (Sbaiti, Mazin)

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9		73	(189 pgs; 4 docs) Exhibit List for November 23, 2021 hearing filed by Plaintiffs CLO Holdco, Ltd., Charitable DAF Fund, LP (RE: related document(s) <u>47</u> Motion to strike (related document(s): <u>43</u> Document), <u>55</u> Motion to abate (related document(s) <u>1</u> Complaint)). (Attachments: # <u>1</u> Exhibit 1_Defendant's Memorandum of Law in Support of Motion for Reconsideration # <u>2</u> Exhibit 2_Highland Memorandum in Support of Motion to Dismiss # <u>3</u> Exhibit 3_Order (I) Confirming Fifth Amended Plan of Reorganization of Highland) (Sbaiti, Mazin)
11	11/24/2021	78	Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) <u>75</u> Hearing held on 11/23/2021. (RE: related document(s) <u>55</u> MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order), <u>76</u> Hearing held on 11/23/2021. (RE: related document(s) <u>47</u> Motion to strike <u>43</u> Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti)



6. Documents listed below and as described in the Docket Sheet for the main Bankruptcy Case Proceeding No. 19-34054-sgj:

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13	07/16/2020	854	(12 pgs) Order granting application to employ James P. Seery, Jr. as Chief Executive Officer, Chief Restructuring Officer and Foreign representative (related document <u>774</u> ) Entered on 7/16/2020. (Ecker, C.) Modified on 7/16/2020 (Ecker, C.).
14	07/17/2020	864	(134 pgs) Transcript regarding Hearing Held 07/14/2020 (134 pages) RE: Applications to Employ. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 10/15/2020. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. (RE: related document(s) 863 Hearing held on 7/14/2020. (RE: related document(s) <u>775</u> Application to employ Development Specialists, Inc. as Other Professional Amended Motion of the Debtor Pursuant to 11 U.S.C. §§ 105(a) and 363(b) to Employ and Retain Development Specialists, Inc. to Provide Financial Advisory and Restructuring-Related Services, Nunc Pro Tunc to March 15, 2020, filed by Debtor Highland Capital Management, L.P.) (Appearances: J. Pomeranz, J. Morris, G. Demo, I. Karash, Z. Annabel, and M. Hayward for Debtors; M. Clemente and P. Montgomery for UCC; A. Clubok for UBS; R. Patel and B. Shaw for Acis; T. Mascherin, M. Hankin, and M. Platt for Redeemer Committee; D. Nier for various employees.. Evidentiary hearing. Application granted (bonuses request withdrawn, per negotiations with UCC, subject to possible later request). Debtors counsel to submit order.)). Transcript to be made available to the public on 10/15/2020. (Rehling, Kathy)
15	12/23/2020	1625	(13 pgs) Motion to compromise controversy with HarbourVest 2017 Global Fund L.P., HarbourVest 2017 Global AIF L.P., HarbourVest Dover Street IX Investment L.P., HV International VIII Secondary L.P., HarbourVest Skew Base AIF L.P., and HarbourVest Partners L.P.. Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
16	01/22/2021	1788	(23 pgs) Order granting motion to compromise controversy with HarbourVest (Claim Nos. 143, 147, 149, 150, 153, 154) and authorizing actions consistent therewith (related document # 1625) Entered on 1/21/2021. (Okafor, M.)

Vol. 10 002345	17	01/22/2021	1808	(66 pgs) Modified chapter 11 plan filed by Debtor Highland Capital Management, L.P. (RE: related document(s) <u>1472</u> Chapter 11 plan). (Annable, Zachery)
Vol. 11 002411 002572	18	02/22/2021	1943	(161 pgs) Order confirming the fifth amended chapter 11 plan, as modified and granting related relief (RE: related document(s) <u>14722352</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P., <u>1808</u> Chapter 11 plan filed by Debtor Highland Capital Management, L.P.). Entered on 2/22/2021 (Okafor, M.)
	19	04/27/2021	2247	(9 pgs) Motion for order to show cause ( <i>Debtor's Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders</i> ) Filed by Debtor Highland Capital Management, L.P. (Annable, Zachery)
Vol. 12 002581 002703	20	06/30/2021	2500	Transcript regarding Hearing Held 06/25/2021 (122 pages) (Excerpt 2: Proceedings from 11:33 am to 3:35 pm) RE: Motion to Reconsider/Motion for Modification(#2248). THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 09/28/2021. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com. (RE: related document(s) <u>2490</u> Hearing held on 6/25/2021. (RE: related document(s) <u>2248</u> Motion to Reconsider(related documents <u>854</u> Order on application to employ) Filed by Plaintiffs CLO Holdco, Ltd., The Charitable DAF Fund, L.P., (Appearances: J. Pomeranz and J. Morris for Debtor; D. Draper for Dugaboy; J. Bridges and M. Sbati for CLO Holdco and DAF; M. Clemente for Unsecured Creditors Committee. Evidentiary hearing. Motion denied, Lengthy bench ruling. Debtors counsel to upload order. Court to issue post-hearing order regarding jury trial rights discussed.)). Transcript to be made available to the public on 09/28/2021. (Rehling, Kathy)
	21	06/30/2021	2506	(2 pgs) Order denying motion for modification of order authorizing retention of James P. Seery, Jr. (related document # <u>2248</u> ) Entered on 6/30/2021. (Okafor, M.)

TRANSCRIPT

Vol. 12

002705

78	11/24/21	78	<p>Transcript regarding Hearing Held 11-23-2021 RE: Motion Hearing. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 02/22/2022. Until that time the transcript may be viewed at the Clerk's Office or a copy may be obtained from the official court transcriber. Court Reporter/Transcriber Liberty Transcripts/Dipti Patel, Telephone number 847-848-4907. (RE: related document(s) 75 Hearing held on 11/23/2021. (RE: related document(s)55 MOTION to Stay filed by CLO Holdco Ltd, Charitable DAF Fund LP (Sbaiti, Mazin) (Entered: 08/26/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #55 ON 08/26/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied. Mr. Pomerantz to upload order. ), 76 Hearing held on 11/23/2021. (RE: related document(s)47 Motion to strike 43 Appendix in support filed by CLO Holdco, Ltd., Charitable DAF Fund, LP (Bridges, Jonathan) Modified text on 7/16/2021 (mjr). (Entered: 07/15/2021) [ORIGINALLY FILED IN 21-CV-0842 AS #47 ON 07/15/2021 IN U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION] (Okafor, M.)) (Appearances: J. Pomerantz and J. Morris for Highland Defendants; J. Jordan and P. Bessett for HCLOF; M. Sbaiti for Plaintiffs. Nonevidentiary hearing. Motion denied (Plaintiffs acknowledged complained-of Appendices it did not relate to Motion to Dismiss). Mr. Pomerantz to upload order. )). Transcript to be made available to the public on 02/22/2022. (Patel, Dipti) [pp. 1-29 only of multi-motion hearing transcript]</p>
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Dated: December 29, 2021

Respectfully submitted,

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**Counsel for Appellants**

1 IN THE UNITED STATES BANKRUPTCY COURT  
2 FOR THE NORTHERN DISTRICT OF TEXAS  
3 DALLAS DIVISION

4 In Re: ) **Case No. 19-34054-sgj-11**  
5 ) Chapter 11  
6 )  
7 ) Dallas, Texas  
8 ) Friday, June 25, 2021  
9 ) 9:30 a.m. Docket  
10 )  
11 ) EXCERPT: MOTION FOR  
12 ) MODIFICATION OF ORDER  
13 ) AUTHORIZING RETENTION OF JAMES  
14 ) P. SEERY, JR. DUE TO LACK OF  
15 ) SUBJECT MATTER JURISDICTION  
16 ) (2248)  
17 )  
18 )  
19 )  
20 )  
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22 )  
23 )  
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25 )

10 TRANSCRIPT OF PROCEEDINGS  
11 BEFORE THE HONORABLE STACEY G.C. JERNIGAN,  
12 UNITED STATES BANKRUPTCY JUDGE.

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

1 DALLAS, TEXAS - JUNE 25, 2021 - 9:36 A.M.

2 (Transcript excerpt begins at 11:33 a.m.)

3 THE CLERK: All rise.

4 THE COURT: All right. Please be seated. We are  
5 back on the record, and our last motion this morning is the  
6 Motion to Reconsider filed by CLO Holdco and the DAF. Do we  
7 have Mr. Bridges and Mr. Sbaiti back with us now?

8 MR. BRIDGES: Yes, Your Honor. I have changed seats  
9 because of audio problems we're having here, but we're both  
10 here.

11 THE COURT: Okay. Well, I think we heard an  
12 agreement that you all have agreed that you're going to have  
13 an hour and a half each, and I presume that means everything:  
14 opening statements, arguments, evidence. So, we'll start the  
15 clock. Nate, it's 11:35. So, Mr. Bridges, your opening  
16 statement?

17 OPENING STATEMENT ON BEHALF OF CLO HOLDCO AND THE CHARITABLE  
18 DAF, LP

19 MR. BRIDGES: Thank you, Your Honor. We're here on a  
20 motion to modify an order that we'd submit has already been  
21 modified by the plan confirmation order, although that order  
22 has not yet become effective.

23 The modification there was to add the phrase "to the  
24 extent legally permissible" to the Court's assertion of  
25 jurisdiction in what is essentially the same gatekeeper



1 provision that's at issue here. We submit that change is an  
2 admission or at least a strong indication that the unmodified  
3 order, at least as applied in some instances, contains  
4 legally-impermissible provisions. The entire argument today  
5 from our side is about what's not legally permissible in that  
6 order.

7 And that starts with our concerns regarding the  
8 application of 28 U.S.C. § 959(a). As Your Honor knows well,  
9 959(a) is a provision of law that the Fifth Circuit and  
10 *Collier on Bankruptcy* call an exception to the *Barton*  
11 doctrine. I know from the last time we were here that the  
12 Court is already aware of what 959(a) says. It's the second  
13 sentence, I understand, which the Court pointed to in our  
14 previous hearing that creates general equity powers or  
15 authorizes the Court to use its general equity powers to  
16 exercise some jurisdiction, some control over actions that  
17 fall within the first sentence of 959(a). But that second  
18 sentence also prohibits explicitly the Court's using general  
19 equity powers to deprive a litigant of his right to trial by  
20 jury.

21 Here, we're not under *Barton*, the statutory exception to  
22 *Barton* applies, because Mr. Seery is a manager of hundreds of  
23 millions of third-party investor property. Instead, we're  
24 here under the Court's general equity powers, as authorized by  
25 959(a). And those equity powers cannot deprive the right to

1 trial by jury.

2 But the order does deprive trials by jury, first by  
3 asserting sole jurisdiction here, where jury trials are  
4 unavailable, and secondly, by abolishing any trial rights for  
5 claims that do not involve gross negligence or intentional  
6 misconduct.

7 Movants' third cause of action in the District Court case  
8 is for ordinary negligence. It comes with a Seventh Amendment  
9 jury right. But it's barred by the order because the order  
10 only allows colorable claims involving gross negligence or  
11 intentional conduct, not ordinary negligence.

12 Movants' second cause of action in the District Court case  
13 is for breach of contract. That comes with a Seventh  
14 Amendment jury right, but it's barred by the order because the  
15 order only allows colorable claims of gross negligence or  
16 intentional misconduct, not negligent or faultless breaches of  
17 contractual obligations.

18 Movants' first cause of action in the District Court case,  
19 breach of Advisers Act fiduciary duties, comes with a jury  
20 right. It's also barred by the order because the order only  
21 allows colorable claims involving gross negligence or  
22 intentional misconduct.

23 You see there what I mean. Congress couldn't have been  
24 clearer. Courts cannot deprive litigants of their day in  
25 court before a jury of their peers by invoking general equity

1 powers. Those powers don't trump the constitutional right to  
2 a jury trial.

3 Yet this Court's order purports to do precisely that, not  
4 only for the Movants, but also for future potential litigants  
5 who may have claims that have not even accrued yet. If those  
6 claims are for ordinary negligence or breach of contract or  
7 breach of fiduciary duties and don't rise to the level of  
8 gross negligence or intentional misconduct, this order says  
9 that those claims are barred, and it would deprive them of  
10 their day in court.

11 The Court's general equity powers are simply not broad  
12 enough to uphold such an order.

13 This issue is even more problematic when the causes of  
14 action at issue fall within the mandatory withdrawal of the  
15 reference provisions of 28 U.S.C. § 157(d). As this Court  
16 knows, it lacks jurisdiction over proceedings that require  
17 consideration of non-bankruptcy federal law regulating  
18 interstate commerce. Some such claims -- Movants' Advisers  
19 Act claim, for instance -- do not involve culpability rising  
20 to the level of gross negligence or intentional misconduct,  
21 but the order purports to bar them nonetheless, despite this  
22 Court's lacking jurisdiction over the subject matter of those  
23 claims.

24 Even if there is gross negligence or intentional  
25 misconduct, the order states that this Court will have sole

1 jurisdiction over such claims. And that can't be right if  
2 withdrawal of the reference is mandatory.

3 Opposing counsel will tell you that 157(d) is inapplicable  
4 here because they think our claims in the District Court won't  
5 require substantial consideration of the Advisers Act or any  
6 other federal laws regulating interstate commerce. But their  
7 cases don't come anywhere close to making that showing, as the  
8 briefing demonstrates.

9 And in any case, that argument is beside the point. This  
10 order is contrary to 157(d) because it asserts jurisdiction  
11 over claims that 157(d) does not apply -- I'm sorry, does  
12 apply to. And that's true regardless of whether Movants'  
13 claims are among those.

14 The idea that there's no substantial consideration of  
15 federal law, however, in the District Court case is undermined  
16 by Mr. Seery's testimony in support of his appointment in  
17 which he confirmed that the Advisers Act applies to him and  
18 that he has fiduciary duties under that Act to the investors  
19 of the funds he manages.

20 Your Honor, importantly, the Advisers Act isn't the  
21 typical federal statute with loads of case law under it. It's  
22 actually an underdeveloped, less-relied-upon statute, and most  
23 -- most of the law under that Act is promulgated by regulation  
24 and supervised by the SEC. As a registered investment  
25 advisor, Mr. Seery is bound by that Act, which he admits, he

1 agrees to. But to flesh out what his duties are requires a  
2 close exam of more than three dozen regulations under 17  
3 C.F.R. Part 275.

4 The obligations include robust duties of transparency and  
5 disclosure, as well as duties against self-dealing and the  
6 necessity of obtaining informed consent, none of which are  
7 waivable, these duties.

8 The proceedings here in this Court reflect an effort to  
9 have those unwaivable duties waived. The allegations in the  
10 District Court are essentially insider trading allegations  
11 that the Debtor and Mr. Seery knew or should have known  
12 information that they had a duty under the Advisers Act to  
13 disclose to their advisees. Both under the Act and  
14 contractually, they had those duties. And, instead, they did  
15 not disclose and consummated a transaction that benefited  
16 themselves nonetheless.

17 In considering those claims, the presiding court will have  
18 to consider and apply the Advisers Act and the many  
19 regulations promulgated under it, in addition to other federal  
20 laws regulating interstate commerce. For that reason,  
21 withdrawal of the reference on the District Court action is  
22 mandatory. That's the two major -- that's two major problems  
23 out of four with the order that we're here on today.

24 First, it deprives litigants of their right to trial, to a  
25 jury trial, when Section 959(a) says that can't be done. And,

1 two, the order asserts jurisdiction -- sole jurisdiction, even  
2 -- over proceedings in which withdrawal of the reference is  
3 mandatory under 157(d).

4 The fourth major problem is what the Court called  
5 specificity at the previous hearing. The Fifth Circuit's  
6 *Applewood Chair* case holds that the rule from *Shoaf* does not  
7 apply without a "specific discharge or release," and that that  
8 release has to be enumerated and approved by the Bankruptcy  
9 Court. Thus, the order here can't exculpate Mr. Seery of  
10 liability for ordinary negligence and the like in a blanket  
11 fashion. The claims being released must be identified.

12 That's what happened in *Shoaf*. Shoaf's guaranty  
13 obligation was explicitly released. That's also what happened  
14 in *Espinosa*. Espinosa's plan listed his student loan as his  
15 only specific indebtedness. But it's not what happened here.  
16 And it couldn't happen here, because the ordinary negligence  
17 and similar claims being discharged by the order had not yet  
18 accrued and thus were not even in existence at the time the  
19 order issued.

20 Instead, what we have here is a nonconsensual, nondebtor  
21 injunction or release that's precisely what the Fifth Circuit  
22 refused to enforce in the *Pacific Lumber* case.

23 So, lack of specificity is the third major problem with  
24 the order. And that brings us to the fourth problem, which is  
25 the *Barton* doctrine. *Barton* is the only possible basis for

1 this Court to assert exclusive or sole jurisdiction over  
2 anything. Outside of *Barton*, it's plain black letter law that  
3 the District Court's jurisdiction is equal to and includes  
4 anything that this Court's derivative jurisdiction would also  
5 reach.

6 But the exception to the *Barton* doctrine in 959(a) plainly  
7 applies here, leaving no basis for exclusivity with regards to  
8 jurisdiction and the District Court. That's because Mr. Seery  
9 is carrying on the business of a debtor and managing the  
10 property of others, rather than merely administering the  
11 bankruptcy estate. The exclusive jurisdiction function of the  
12 *Barton* doctrine has no applicability because 959(a) creates  
13 that exception here.

14 Under its general equity powers, yes, 959(a) still  
15 authorizes this Court to exercise some control over actions  
16 against Mr. Seery, but short of depriving litigants of their  
17 day in court. And nothing in 959(a), that exception to  
18 *Barton*, says that the Court can nonetheless exercise  
19 exclusivity in that jurisdiction. Those general equity powers  
20 do not create exclusive or sole jurisdiction. They do not  
21 deprive the District Court of its Congressionally-granted  
22 original jurisdiction.

23 Moreover, Mr. Seery is not an appointed trustee entitled  
24 to the protections of the *Barton* doctrine in any case. His  
25 appointment was a corporate decision that the Court was asked



1 not to interfere with. The Court was asked to defer under the  
2 business judgment rule to the Debtor's appointment of Mr.  
3 Seery. And the Court did so.

4 As we asserted last time, no authority that we can find  
5 combines these two unrelated doctrines, the *Barton* doctrine  
6 and the business judgment rule. And they don't go together.  
7 None of the testimony or the briefing or argument, in the July  
8 order, in the January order that preceded it, none of that  
9 indicated that Mr. Seery would be a trustee or the functional  
10 equivalent of a trustee. The word "trustee" does not appear  
11 in any of those briefs or transcripts.

12 Opposing -- and because of that, the District Court suit  
13 is not about -- well, not because of that. The District Court  
14 suit simply is not about any trustee-like role that Mr. Seery  
15 may have played anyway. Opposing counsel will try to convince  
16 you otherwise, will tell you that the District Court case is a  
17 collateral attack on the settlement, but it's not. Wearing  
18 his estate administrator hat, Mr. Seery can settle claims in  
19 this court. Wearing his advisor hat, he has to fulfill his  
20 Advisers Act duties and properly advise his clients.

21 He doesn't have to wear both hats, and it seems highly  
22 unusual that he would choose to fill both of those roles  
23 simultaneously. But he has chosen both roles. And the  
24 District Court case is a hundred percent about his role as an  
25 advisor. Did he comply with the Act? Did he do the things

1 that his advisor role obligated him to do as a manager of that  
2 property?

3 The District Court suit really is only being used to  
4 illustrate the issues that we're raising here. It's  
5 important, it's timely to address those issues now because of  
6 the District Court action, but that's an illustration of the  
7 problems with the order. It is not exclusively that that  
8 action is what we're attempting to address. Rather, the order  
9 exculpating Mr. Seery from ordinary negligence liability and  
10 similar liability is problematic, is contrary to the law. On  
11 top of that, the Court is asserting jurisdiction over gross  
12 negligence and intentional misconduct claims. To the extent  
13 that 157(d) applies, it is problematic and contrary to law as  
14 well.

15 THE COURT: Okay. We're occasionally getting some  
16 breakup of your sound. So please -- I don't know what you can  
17 do to adjust, but it was just now, and intermittently we get a  
18 little bit of garbly. So if you could just say your last  
19 sentence one more time, and we'll see if it improves.

20 MR. BRIDGES: Your Honor, I'm not sure I can say this  
21 last sentence again.

22 THE COURT: Okay.

23 MR. BRIDGES: I was -- I was mentioning that the  
24 District Court case is an illustration of our argument. Our  
25 argument is not merely that the District Court case should be

1 exempted or excepted from the order. Our argument is that the  
2 order is legally infirm and that the District Court case and  
3 the claims there illustrate some of those infirmities, but  
4 that the infirmities go beyond just what's at issue in the  
5 District Court case.

6 In sum, there are four problems with the order that render  
7 parts of it legally infirm. It deprives the right of a jury  
8 trial -- in fact, of any trial -- in contravention of 959(a)  
9 for some causes of action.

10 It asserts jurisdiction -- two, it asserts jurisdiction  
11 over claims that are subject to the mandatory withdrawal of  
12 the reference provision (garbled) 157(d).

13 And three, it lacks the specificity required to discharge  
14 future claims under *Applewood*.

15 Finally, Your Honor, number four, the order relies on the  
16 *Barton* doctrine, which doesn't apply and which 959(a) creates  
17 an exception to.

18 Movants respectfully submit the order should be modified  
19 for those reasons.

20 MR. SBAITI: Tell him Mark Patrick is here, for the  
21 record.

22 THE COURT: All right. I have a couple of follow-up  
23 questions for you. I want to drill down on the issue of your  
24 client not having appealed the July 2020 order. Or the  
25 HarbourVest settlement order, for that matter. Tell me as

1 directly as possible why you don't view that as a big problem.  
2 Because it's high on my list of possible problems here.

3 MR. BRIDGES: I understand, Your Honor. The  
4 *Applewood Chair* case is our -- our defense to that argument,  
5 that without providing specifics as to the claims being  
6 discharged in the July order, that *Shoaf* cannot apply to  
7 create a res judicata effect from the failure to appeal that  
8 order.

9 THE COURT: But is that really what we're talking  
10 about, a discharge of certain claims? We're talking about a  
11 protocol that the Court established which wasn't appealed.

12 MR. BRIDGES: Your Honor, your order does many  
13 things. We're talking about a few of them in one paragraph of  
14 the order. And in that order -- in that paragraph, yes, it  
15 creates a protocol for determining the colorability of some  
16 claims, claims that rise to the level of gross negligence or  
17 intentional misconduct. It does not create a protocol for  
18 claims that fall below that threshold, claims for ordinary  
19 negligence, as an example.

20 THE COURT: Okay.

21 MR. BRIDGES: For breach of contract that's not  
22 intentional, is not grossly negligent, it's just a breach of  
23 contract. It can even be faultless. There's still liability.  
24 There's still a jury right under the Seventh Amendment for  
25 faultless breach of contract.

1           The protocols in the order do not address such claims  
2 other than to bar them. To discharge them. And thus, yes,  
3 it's a release, it's a discharge of those claims. It can be  
4 viewed as a permanent injunction against bringing such claims.  
5 It's what's -- it's what's not allowed by the *Applewood Chair*  
6 case and by *Pacific Lumber*.

7           THE COURT: All right. So you're arguing that was --  
8 the wording of the order was not specific enough to apprise  
9 affected parties of what they were releasing, they're  
10 releasing claims based on ordinary negligence against Mr.  
11 Seery? That's not specific enough?

12           MR. BRIDGES: Correct. Future unproved claims, the  
13 factual basis for which has not happened yet. Those cannot be  
14 and were not disclosed with any specificity in this order.

15           If we compare it to *Shoaf* and to *Espinosa*, in *Shoaf* what  
16 we had was a guaranty, Shoaf's guaranty on a transaction that  
17 was listed in the actual release, describing what the  
18 transaction was that was being -- that the guaranty was being  
19 released for.

20           In *Espinosa*, what we had was a student loan --

21           THE COURT: Right.

22           MR. BRIDGES: -- that was listed in the plan  
23 specifically, as the only specific indebtedness.

24           Here, we don't have any of that specificity. What we have  
25 is a notice to the entire world, Your Honor, that for an

1 unlimited period of time any claim for ordinary negligence,  
2 for ordinary breach of contract or fiduciary duty against Mr.  
3 Seery is barred if it relates to his CEO role. And his CEO  
4 role means as a manager of property, exactly precisely what  
5 959(a) is talking about.

6 Those jury rights (garbled) claims cannot be released,  
7 discharged, expunged, done away with, in an order that isn't  
8 explicit.

9 On top of that, even in an explicit order, 959(a) tells  
10 the Court it cannot deprive a litigant of its jury trial  
11 right.

12 THE COURT: Well, as anyone knows who's been around a  
13 while in this case, my brain sometimes goes down an unexpected  
14 trail, and maybe this one is one of those situations. Are  
15 there contracts that your clients would rely on in potential  
16 litigation?

17 MR. BRIDGES: Yes, Your Honor.

18 THE COURT: What are those contracts?

19 MR. BRIDGES: It is a management contract. I don't  
20 think I can give you the specifics at this moment, but I  
21 probably can before we're done here today. A management  
22 contract in which the Debtor provides advisory and management  
23 services to the DAF --

24 THE COURT: Well, you know, the shared services  
25 agreements that we heard so much about in this case? A shared

1 service agreement? I can't remember, you know, which entities  
2 have them and which do not at times. So, --

3 MR. BRIDGES: The shared services agreement is one of  
4 those contracts, Your Honor.

5 THE COURT: Okay.

6 MR. BRIDGES: It's not the only one.

7 THE COURT: And what are the others?

8 MR. BRIDGES: There's -- the other is the investment  
9 advisory agreement.

10 THE COURT: Those two?

11 MR. BRIDGES: (no response)

12 THE COURT: Those are the only two?

13 MR. BRIDGES: There may be one other, Your Honor.  
14 I'm not sure.

15 THE COURT: Are they in evidence?

16 MR. BRIDGES: I can find out shortly.

17 THE COURT: Are they in evidence? We haven't talked  
18 about evidence yet, but are they going to be in evidence,  
19 potentially?

20 MR. BRIDGES: They are referenced in the District  
21 Court case, the complaint, which is in evidence.

22 THE COURT: I'm asking, are --

23 MR. BRIDGES: But those contracts I don't believe are  
24 listed as exhibits here in this motion, no.

25 THE COURT: They are not? Okay.



1 Well, what my brain is thinking about here is, of the  
2 umpteen agreements I've seen -- more than umpteen -- of the  
3 many, many agreements I've seen over time in this case, so  
4 often there's a waiver of jury trial rights, as I recall, as  
5 well as an arbitration clause. I just was curious, hmm, you  
6 know, you talked a lot about your clients' jury trial rights:  
7 do we know that these agreements have not waived those?

8 MR. BRIDGES: Your Honor, I think I can answer that  
9 by the end of our hearing. I don't have an answer off the top  
10 of my head. What I can tell you is a jury right has been  
11 demanded in the federal court complaint, which is in evidence,  
12 and that opposing counsel has brought no evidence indicating  
13 that they have the defense of our having waived the right to a  
14 jury trial here.

15 THE COURT: Okay. Well, I just --

16 MR. BRIDGES: Or arbitra...

17 THE COURT: -- would think that you would know that.  
18 Does anyone know that on the Debtor's side off the top of your  
19 head?

20 MR. POMERANTZ: I do not, Your Honor.

21 THE COURT: Uh-huh.

22 MR. POMERANTZ: And to Mr. Bridges' last point, we  
23 have filed a motion to dismiss. We have not answered the  
24 complaint. So any time to object to their jury trial right  
25 would be in the context of the answer. So the implication

1 that we have not raised the issue and therefore it doesn't  
2 exist is just not a correct implication and connection he's  
3 trying to draw.

4 THE COURT: Okay. All right.

5 Well, let me also ask you about this. I'm obsessing a  
6 little over the *Barton* doctrine and your insistence that it  
7 does not provide authority or an analogy here.

8 Well, for one thing, is there anything in the Fifth  
9 Circuit case *Sherman v. Ondova* that you think either helps you  
10 or hurts you on that point? I'm intimately familiar with it,  
11 although I haven't read it in a while, because it was my  
12 opinion that the Fifth Circuit affirmed. And I spent a lot of  
13 time thinking about that. It was a trustee, a traditional --  
14 well, no, a Chapter 11 trustee and his counsel. But anything  
15 from that case that you think is worthy of pointing out here?

16 MR. BRIDGES: No, Your Honor. I'm not -- nothing  
17 comes to mind. That case is not fresh on my mind.

18 What I would tell you is that *Barton* doctrine and the  
19 business judgment rule are incompatible, and the appointment  
20 of a trustee never involves application of the business  
21 judgment rule or deference to the Debtor or another party in  
22 terms of making that appointment.

23 The *Barton* doctrine, as it applies to trustees, is viewed  
24 as an extension, to some extent, of judicial immunity to the  
25 trustee, who is chosen by, selected by the Court and assigned

1 by the Court to carry out certain functions. That --

2 THE COURT: Well, let me --

3 MR. BRIDGES: -- quasi-immunity --

4 THE COURT: -- stop you there. You say it's an  
5 extension of immunity. But isn't it, by nature, really a  
6 gatekeeping provision? It's a gatekeeping provision, right?  
7 Before you even get to immunity, maybe, in a lawsuit, it's a  
8 gatekeeping function that the Supreme Court has blessed, you  
9 know, obviously in the context of a receiver, but appellate  
10 courts have blessed it in the bankruptcy context. The  
11 Bankruptcy Court can be the gatekeeper on whether the trustee  
12 or someone I think in a similar position can get sued or not.

13 And then we had that Fifth Circuit case after *Ondova*. It  
14 begins with a *V, Villegas* or something like that. Didn't  
15 that, I don't know, further ratify, if you will, the whole  
16 *Barton* doctrine by saying, oh, just because they're noncore  
17 claims, state law or non-bankruptcy law claims, doesn't mean,  
18 after *Stern*, the Bankruptcy Court still cannot serve the  
19 gatekeeper function.

20 Tell me what you disagree. That's my kind of combined  
21 reading of all of that.

22 MR. BRIDGES: Your Honor, I have to parse it out.  
23 There's a lot to unpack there. If I can make sure to get in  
24 the follow-ups, I can start with saying it's okay for the  
25 Court in many instances to act as a gatekeeper.

1 THE COURT: Okay.

2 MR. BRIDGES: Both under *Barton* -- under *Barton*, or  
3 when the *Barton* exception in 959(a) applies, under the Court's  
4 general equitable powers, that gatekeeping functions are not  
5 across-the-board prohibited, --

6 THE COURT: Okay.

7 MR. BRIDGES: -- and we aren't trying to argue that  
8 they're prohibited across the board.

9 THE COURT: Okay.

10 MR. BRIDGES: Now, to try to dig into that a little  
11 deeper, the order does two things: gatekeeping as to some  
12 claims, and, frankly, discharging or barring other claims.  
13 Those are two separate functions.

14 The first one, the gatekeeping, may be, in some  
15 circumstances, which we'll come to, many circumstances, may be  
16 allowable, may be even mandatory under *Barton*, not even  
17 requiring an order from this Court, for the gatekeeping of  
18 *Barton* to apply. But nonetheless, allowable in many instances  
19 under the Court's general equity powers under 959(a). That  
20 part is right about gatekeeping.

21 It does not create jurisdiction in this Court where 157(d)  
22 deprives this Court of jurisdiction. Just because it's  
23 related to bankruptcy isn't enough to say that the Court  
24 therefore has jurisdiction if, one, if mandatory withdrawal of  
25 the reference is required.

1           Furthermore, Your Honor, that gatekeeping function, under  
2 the equity powers authorized by 959(a), will not allow a court  
3 to discharge or -- or deprive, is the word I'm looking for --  
4 deprive a litigant of their right to a trial -- a specific  
5 kind of trial, a jury trial -- but a trial. And by crafting  
6 an order that says certain kinds of claims that do (garbled)  
7 jury rights are barred, rather than just providing a  
8 gatekeeper provision, flat-out bars them, that doesn't -- that  
9 doesn't comply with 959.

10           THE COURT: Okay.

11           MR. BRIDGES: Your Honor, if I could add one last  
12 thing.

13           THE COURT: Go ahead.

14           MR. BRIDGES: The Supreme Court's *Stern* case points  
15 out that -- that it's -- well, actually, it's the *Villegas*  
16 case from the Fifth Circuit --

17           THE COURT: The one I mentioned.

18           MR. BRIDGES: -- points out that *Stern* -- *Stern* --  
19 yes, you did. *Stern* did not create an exception to the *Barton*  
20 doctrine. And that gives -- that endorses a *Barton* court's  
21 ability to perform gatekeeping, even over claims that *Stern*  
22 says there would not be jurisdiction over.

23           Contrast that with 959(a), which *Collier on Bankruptcy* and  
24 the Fifth Circuit have held is an exception to the *Barton*  
25 doctrine. Because of that exception, *Barton* no longer

1 applies, and what you're using in invoking a gatekeeper order  
2 is the Court's inherent equitable powers, its general powers  
3 in equity. And those equity powers are cabined. They're  
4 broad, but they're cabined by 959(a)'s prohibition of doing  
5 away with a litigant's right to a trial, a jury trial.

6 Now, I also -- counsel is telling me I should note for the  
7 record that Mr. Mark Patrick is here as a representative of  
8 our clients. But Your Honor, I'll -- I will quit now unless  
9 you have further questions for me.

10 THE COURT: All right. I do not at this time. Mr.  
11 Morris or Mr. Pomerantz, who's going to make the argument?

12 MR. POMERANTZ: It's me, Your Honor.

13 OPENING STATEMENT ON BEHALF OF THE DEBTOR

14 MR. POMERANTZ: And I'll start with the jury trial  
15 right. In the last few minutes, we have been able to  
16 determine that the Second Amended and Restated Investment  
17 Advisory Agreement between the DAF and the Debtor has a broad  
18 jury trial waiver under 14(f). And in addition, as I will  
19 include in my discussion, there is no private right of action  
20 under the Investment Advisers Act.

21 I think those two points are fatal to Movants' argument,  
22 and probably I can get away with not even responding to the  
23 others. But since I prepared a lengthy presentation to  
24 address the issues that were raised today, and also the half  
25 hour that Mr. Bridges spent with Your Honor on June 8th in

1 which was his first opening statement on the motion for  
2 reconsideration, I'll now proceed.

3 THE COURT: All right.

4 MR. POMERANTZ: The arguments that the Movants made  
5 in the original motion essentially boil down to one legal  
6 proposition, that the Court did not have jurisdiction to enter  
7 the July 16th order because those orders impermissibly  
8 stripped the District Court from jurisdiction, in violation of  
9 (inaudible) Supreme Court precedent and 28 U.S.C. Section  
10 157(d).

11 As with all things Dondero, the arguments continue to  
12 morph, and you heard argument at the contempt hearing on June  
13 8th and further argument today that now the prospective  
14 exculpation for negligence in the order is also unenforceable  
15 and should be modified.

16 Movants continue to try to distance themselves from the  
17 January 9th order and argue that it is not relevant because  
18 they seek to pursue claims against Mr. Seery as CEO and not as  
19 an independent director. Movants ignore, however, that the  
20 January 9th order not only protects Mr. Seery in his role as  
21 the independent director, but also as an agent of the board.  
22 I will walk the Court through my arguments on that issue in a  
23 few moments.

24 Of course, the Movants had no explanation, Your Honor, for  
25 the question of why it took them until May of 2021, 10 months



1 after the entry of the July 16th order that appointed Mr.  
2 Seery as CEO and CRO, and 16 months after the Court appointed  
3 the independent board, with Mr. Dondero's blessing and  
4 consent, as a substitute for what would have surely been the  
5 imminent appointment of a Chapter 11 trustee.

6 Movants try to distance themselves from the prior orders  
7 by essentially arguing that the DAF is a newcomer to the  
8 Chapter 11 and is not under Mr. Dondero's control but is  
9 rather managed separately and independently by Mr. Patrick,  
10 who recently replaced Mr. Scott.

11 The Movants admit, as they must, that the DAF is the  
12 parent and the sole shareholder of CLO Holdco and conducts its  
13 business through CLO Holdco, and both entities conduct their  
14 business through one individual. It was Grant Scott then;  
15 it's Mark Patrick now. So even if Mr. Dondero does not  
16 control the DAF and CLO Holdco, which issue was the subject of  
17 lengthy testimony in connection with the DAF hearing, both the  
18 DAF and the CLO Holdco are bound by the Debtor's res judicata  
19 argument, which I will discuss shortly.

20 In any event, I really doubt the Court is convinced that  
21 the DAF operates truly independently of Mr. Dondero any more  
22 than the Court has been convinced that the Advisors, the  
23 Funds, Dugaboy and Get Good, all operate independently from  
24 Mr. Dondero. The only explanation for the delay is that Mr.  
25 Dondero has been and continues to be unhappy with the Court's

1 rulings and has now hired a new set of lawyers in a desperate  
2 attempt to evade this Court's jurisdiction. Having failed in  
3 their attempt to recuse Your Honor from the case, this is  
4 essentially their last hope.

5 And these new lawyers, Your Honor, have not only filed  
6 this DAF lawsuit in the District Court which is the subject of  
7 the contempt motion and today's motion, but they also filed  
8 another lawsuit in the District Court on behalf of an entity  
9 called PCMG, another Dondero entity, challenging yet another  
10 of Mr. Seery's postpetition decisions.

11 And there's no doubt that this is only the beginning. Mr.  
12 Dondero recently told Your Honor at a hearing that there were  
13 many more sets of lawyers waiting in the wings. And as the  
14 Court remarked at the hearing on the Trusts' motion to compel  
15 compliance with Rule 2015.3, the Trusts were trying through  
16 that motion to obtain information about the Debtor's control  
17 entities so that they could file more lawsuits against the  
18 Debtor, a concern that Mr. Draper unconvincingly denied.

19 I would like to focus the Court preliminarily on exactly  
20 what the January 9th and July 16th orders do, because Movants  
21 try to confuse things by casting the entire order with a broad  
22 brush of their jurisdictional overreach arguments, and they  
23 misinterpret Supreme Court and Fifth Circuit precedent.

24 I would like to put up on the screen the language of  
25 Paragraph 10 of the January 9th order and Paragraph 35

1 (garbled) of the July 16th.

2 Your Honor is very familiar with these orders, I'm sure,  
3 having dealt with them in connection with confirmation and in  
4 prior proceedings. But to recap, the orders essentially do  
5 three things.

6 First, they require the parties to first come to the  
7 Bankruptcy Court before commencing or pursuing a claim against  
8 certain parties.

9 Second, they provided the Court with the sole jurisdiction  
10 to make a finding of whether the party has asserted a  
11 colorable claim of negligence -- of willful misconduct or  
12 gross negligence.

13 And lastly, the orders provided the Court with exclusive  
14 jurisdiction over any claims that the Court determined were  
15 colorable.

16 The protected parties under the January 9th order are the  
17 independent directors, their agents and advisors, which, as I  
18 mentioned earlier, includes Mr. Seery -- who, at least as of  
19 March 2020, was acting as the agent on the board's behalf as  
20 the CEO -- for any actions taken under their direction.

21 The protected parties under the July 16th order are Mr.  
22 Seery, as the CEO and CRO, and his agents and advisors.

23 Movants spend a lot of time in their moving papers and  
24 reply arguing that the Court may not assert exclusive  
25 jurisdiction over any claims that pass through the gate. They

1 also spend a lot of time arguing that the Bankruptcy Court  
2 does not even have jurisdiction at all to assert -- to  
3 adjudicate claims against Mr. Seery because such claims are  
4 subject to mandatory withdrawal under Section 157(d).

5 The Debtor doesn't agree, and has briefed why mandatory  
6 withdrawal of the reference is inapplicable. The Debtor has  
7 also filed in the District Court a motion to enforce the  
8 reference in effect in this district which refers cases in  
9 this district arising under, arising in, or related to Chapter  
10 11 to the Bankruptcy Court.

11 The motion to enforce the reference, Your Honor, which  
12 extensively briefs this issue, is contained in Exhibit 3 of  
13 the Debtor's exhibits.

14 We were somewhat surprised that the complaint filed in the  
15 District Court wasn't automatically referred to this Court  
16 under the standing order in effect in this district, given the  
17 related bankruptcy case, the Court's prior approval of the  
18 HarbourVest settlement, and the appeal in the District Court  
19 of the HarbourVest settlement.

20 When we dug a little further, we found out that Movants  
21 filed a civil case cover sheet accompanying the complaint in  
22 the District Court. They neglected in that initial filing to  
23 point out that there was any related case to the lawsuit they  
24 filed.

25 Mr. Bridges fell on his sword at the contempt hearing on

1 June 8th and took complete responsibility for the oversight.  
2 I commend him for not trying to argue that the bankruptcy  
3 case, the HarbourVest settlement, and the District Court  
4 appeal are not related cases that would require disclosure, an  
5 argument that surely would have been unsupportable.

6 But as I said at the contempt hearing, I find it curious  
7 that such an important issue was overlooked, an issue which  
8 would have likely changed the entire trajectory of the  
9 proceedings and landed the DAF lawsuit in this Court rather  
10 than the District Court.

11 And this Tuesday, Your Honor, Movants filed a revised  
12 civil cover sheet with the District Court. Although they  
13 referenced the bankruptcy case as a related case, they didn't  
14 bother to mention the appeal already pending in the District  
15 Court regarding the HarbourVest settlement -- surely, a  
16 related case.

17 Your Honor also asked Mr. Bridges at the June 8th hearing  
18 whether it was an oversight or intentional that he didn't  
19 mention 28 U.S.C. Section 1334 as a basis for jurisdiction in  
20 his complaint. Mr. Bridges had no answer for Your Honor then,  
21 and has given no answer now. His only comment at the hearing  
22 last time was that it must have been Ms. Sbaiti that wrote it  
23 because he had no recollection of it.

24 So, Your Honor, it's no surprise that Movants conveniently  
25 found themselves in the District Court, which was their

1 ultimate strategy from the get go.

2 In any event, Your Honor, we have briefed the withdrawal  
3 of the reference issue. A response by the Movants is due --  
4 CLO Holdco and DAF is due on June 29th. And we hope the  
5 District Court will decide soon thereafter whether to enforce  
6 the reference.

7 While I'm happy to argue why Movants' mandatory withdrawal  
8 of the reference argument is [not] persuasive, I don't think  
9 it's necessary, but I do, again, want to highlight that there  
10 is no private right of action under the Investment Advisers  
11 Act.

12 Your Honor, it's not really relevant to today's hearing,  
13 since we have argued in opposition to the motion before Your  
14 Honor that resolving the issue of the Bankruptcy Court's  
15 jurisdiction to adjudicate claims contained in the complaint  
16 as they relate to Mr. Seery is premature at this point. The  
17 January 9th and July 16th orders first require the Court to  
18 determine whether a claim is colorable. It's not until this  
19 Court determines if a claim is colorable that the decision on  
20 where the lawsuit should be tried is relevant.

21 Having said that, Your Honor, we read the Movants' reply  
22 brief very carefully and noticed in Footnote 6 that the  
23 Movants state that modifying the exclusive grant of  
24 jurisdiction to adjudicate any claims that pass through the  
25 gate to include the language "to the extent permissible by

1 law," in the same way the Debtor modified the plan, would  
2 resolve the motion. So let's look at the provision as it  
3 exists in the plans.

4 Ms. Canty, if you can put up the next demonstrative,  
5 please.

6 This provision provides that the Bankruptcy Court will  
7 have sole and exclusive jurisdiction to determine whether a  
8 claim or cause of action is colorable, and, only to the extent  
9 legally permissible and provided in Article XI, shall have  
10 jurisdiction to determine -- to adjudicate the underlying  
11 colorable claim or cause of action.

12 The Movants request in their reply brief in Footnote 6  
13 that the July 16th order be given the plan treatment. That  
14 treatment: sole authority to determine colorability and  
15 jurisdiction, and, to the extent legally permissible, to  
16 adjudicate underlying claim, only if jurisdiction existed.

17 After reviewing the reply brief and prior to the June 8th  
18 hearing, we decided that we would agree to modify both the  
19 January 9th and the July 16th orders to provide that the  
20 Bankruptcy Court would only have jurisdiction to adjudicate  
21 claims that pass through the colorability gate to the extent  
22 permissible by law.

23 Prior to the June 8th hearing, Mr. Morris and I had a  
24 conversation with Mr. Bridges. We conferred about a potential  
25 resolution and a proposed modification. Mr. Bridges indicated



1 they were interested in exploring a resolution and wanted to  
2 --

3 MR. BRIDGES: Objection, Your Honor.

4 THE COURT: There's an objection?

5 MR. BRIDGES: Objection, Your Honor. There's a Rule  
6 408 settlement discussion. He's welcome to talk about the  
7 results, but he shouldn't be talking about what was -- what  
8 was proposed by opposing counsel in a settlement conversation.

9 THE COURT: Okay. I overrule.

10 MR. POMERANTZ: Your Honor, this was not --

11 THE COURT: I don't think this is a 408 issue.  
12 Continue.

13 MR. BRIDGES: Thank you.

14 MR. POMERANTZ: The stipulation and order which we  
15 provided to counsel is attached to my declaration, which is  
16 found at Document 2418, and it was filed in connection with a  
17 Notice of Revised Proposed Orders that we filed at Docket  
18 2417. And I would like to put up on the screen the relevant  
19 paragraphs of the order that we provided to the Movants.

20 So, you see, we agreed to modify each of the orders at the  
21 end to do what the plan says. The Court would only have  
22 jurisdiction for claims passing through the gate if the Court  
23 had jurisdiction and it was legally permissible.

24 Movants' counsel, however, responded with a mark-up that  
25 went beyond -- went beyond what Movants proposed in Footnote 6

1 and sought to fundamentally change the January 9th and July  
2 16th orders in ways that were not acceptable to the Debtor and  
3 not even contemplated by the original motion.

4 Ms. Canty, can you put up on the screen the relevant  
5 paragraphs of the response we received?

6 Specifically, Your Honor, you see at the first part they  
7 wanted to provide that the only -- the order only applied to  
8 claims involving injury to the Debtor, presumably as opposed  
9 to alleged injuries to affiliated funds or third parties.  
10 They also provided that the Court's ability to make the  
11 initial colorability determination was also qualified by "to  
12 the extent permissible by law" in the way that the Court --  
13 that the Debtor agreed to modify the ultimate adjudication  
14 jurisdiction provision.

15 Your Honor, Movants haven't even talked about this back  
16 and forth. They haven't talked about their about-face. And  
17 I'll leave it for Your Honor to read their Footnote 6 that  
18 said it would resolve their motion, the back and forth, our  
19 proposal, and now Mr. Bridges' modified, morphed arguments  
20 that now point out other issues.

21 In any event, Your Honor, we made the change, and we think  
22 it should resolve the motion, or at least it resolves part of  
23 the motion. There can't be any argument that the Court is  
24 trying to exert exclusive jurisdiction on claims that pass  
25 through the gate.

1           What apparently remains from the arguments raised by the  
2 Movants is the argument that the Court does not even have  
3 jurisdiction to act as a gatekeeper in the first place because  
4 it doesn't have jurisdiction of the underlying lawsuit. And  
5 on June 8th and today, they've added a new argument, that the  
6 orders impermissibly exculpate Mr. Seery and others, violate  
7 their jury trial rights, and are contrary to the Fifth Circuit  
8 precedent.

9           Movants claims that the orders are a jurisdictional  
10 overreach, a violation of constitutional proportions, a  
11 violation of due process, and inconsistent with several U.S.  
12 Supreme Court cases. But, of course, they cite no cases whose  
13 facts are even remotely similar to this one. Instead, they  
14 are content to rely on general statements regarding bankruptcy  
15 jurisdiction, how it is derived from district court  
16 jurisdiction and is constitutionally limited, legal  
17 propositions which are not terribly controversial or even  
18 applicable to these facts.

19           There are several arguments -- I mean, there are several  
20 reasons, Your Honor, why Movants' arguments fail. Initially,  
21 Movants have not cited any authority, any statute, or any rule  
22 which would allow this Court to revisit the January 9th and  
23 July 16th orders. As I will discuss in a moment, Your Honor,  
24 *Republic v. Shoaf*, a case the Court is very familiar in and  
25 relied on in connection with plan confirmation, bars a

1 collateral attack on these orders under the doctrine of res  
2 judicata.

3 Similarly, as the Court remarked on June 8th, the Supreme  
4 Court's *Espinosa* decision, which rejected an attack based upon  
5 Federal Rule of Civil Procedure 60(b)(4) to a prior order that  
6 may have been unlawful, prohibits the Court from now  
7 reconsidering the January 9th and July 16th orders.

8 But even if Your Honor rules that res judicata does not  
9 apply, there are two independent reasons why the orders were  
10 not an unlawful extension of the Court's jurisdiction. The  
11 first is because the Court had jurisdiction to enter both of  
12 those orders as the ability to determine the colorability of  
13 claims is within the jurisdiction of the Court. The second is  
14 because the orders are justified by the *Barton* doctrine.

15 Lastly, Your Honor, Movants' argument that the Court may  
16 not act as a gatekeeper to determine the colorability of a  
17 claim for which it may not have jurisdiction is incorrect, and  
18 as Your Honor has mentioned and as Mr. Bridges unconvincingly  
19 tried to distinguish, the Fifth Circuit *Villegas v. Schmidt*  
20 case is a case on point and resolves that issue.

21 Turning to res judicata, Your Honor, it prevents the Court  
22 from revisiting these governance orders. CLO Holdco had  
23 formal notice of the Seery CEO motion and the opportunity to  
24 respond. It failed to do so. It is clearly bound.

25 As reflected on Debtor's Exhibit 4, CLO Holdco is a

1 wholly-owned subsidiary of the DAF. The DAF is its sole  
2 shareholder. There is no dispute about that. Importantly, at  
3 the time of both the January and July orders, Grant Scott was  
4 the only human being authorized to act on behalf of CLO Holdco  
5 and the DAF. The DAF did not respond to the Seery CEO motion,  
6 either.

7 And why is that important, Your Honor? It's because  
8 Movants argue in their reply that the DAF cannot be bound by  
9 res judicata because they did not receive notice of the July  
10 16th order. However, Your Honor, that is not the law. Res  
11 judicata binds parties to the dispute and their privies, and  
12 the DAF is bound to the prior orders even though it did not  
13 receive notice.

14 There are several cases, Your Honor, that stand for this  
15 unremarkable proposition. First I would point Your Honor to  
16 the Fifth Circuit's opinion of *Astron Industrial Associates v.*  
17 *Chrysler*, found at 405 F.2d 958, a Fifth Circuit case from  
18 1968. In that case, Your Honor, the Fifth Circuit held that  
19 the appellant was barred by the doctrine of res judicata from  
20 bringing a claim because its parent, which was its sole  
21 shareholder, would have been bound by res judicata.

22 *Astron* is consistent with the 1978 Fifth Circuit case of  
23 *Pollard v. Cockrell*, 578 F.2d 1002 (1978). And the Northern  
24 District of Texas in 2000 case of *Bank One v. Capital*  
25 *Associates*, 2000 U.S. Dist. LEXIS 11652, found that a parent

1 and a sole shareholder of an entity couldn't assert res  
2 judicata as a defense when those claims could have been  
3 brought against its wholly-owned subsidiary.

4 And lastly, Your Honor, the 2011 Southern District of  
5 Texas case, *West v. WRH Energy Partners*, 2011 LEXIS 5183, held  
6 that res judicata applied with respect to a partnership's  
7 general partner because the general partner was in privity  
8 with the partnership.

9 These cases are spot on and make sense. DAF is CLO  
10 Holdco's parent. Grant Scott was the only live person to  
11 represent these entities in any capacity at the relevant  
12 times. Accordingly, just as CLO Holdco is bound, DAF is  
13 bound.

14 Allowing DAF to assert a claim when its wholly-owned and  
15 controlled subsidiary is barred would allow entities to  
16 transfer claims amongst their related entities in order to  
17 relitigate them and they would never be finality. And, of  
18 course, Jim Dondero, as we know, consented to the January 9th  
19 order, which provided Mr. Seery protection in a variety of  
20 capacities.

21 And as Your Honor has pointed out, and as Mr. Bridges  
22 didn't have an answer for, neither CLO Holdco nor the DAF or  
23 any other party appealed any of the governance orders. And  
24 nobody challenged the validity of these orders at the  
25 confirmation hearing, where the terms of these orders were

1 front and center.

2 And importantly, Your Honor, the orders are clear and  
3 unambiguous. They require a Bankruptcy Court [sic] to seek  
4 Bankruptcy Court approval before they commence or pursue an  
5 action against the independent board, the CEO, CRO, or their  
6 agents. And they clearly and unambiguously set the standard  
7 of care for actions prospectively: gross negligence or  
8 willful misconduct.

9 The Bankruptcy Court had jurisdiction to enter the  
10 governance orders, which, as expressly indicated in the  
11 orders, were core proceedings dealing with the administration  
12 of the estate. No one challenged this finding of core  
13 jurisdiction. And as I will discuss later, the failure to  
14 challenge core jurisdiction is waived under applicable Supreme  
15 Court and Fifth Circuit precedent.

16 Your Honor, the Court [sic] does not argue that Movants  
17 have waived their right to seek adjudication of a lawsuit that  
18 passes through the colorability gate by an Article III Court.  
19 The issue is not before the Court, but the changes to the  
20 order that the Debtor agreed to make clearly -- clearly will  
21 provide Mr. Bridges' clients the ability to make that  
22 determination.

23 The Debtor is, however, arguing that the Movants have  
24 waived their right to contest the core jurisdiction of the  
25 Bankruptcy Court to make the determination that the claims are



1 colorable in the first place, and to challenge the exculpation  
2 provisions provided to the beneficiaries of those orders.

3 Accordingly, Your Honor, the elements of res judicata are  
4 satisfied. Both proceedings involve the same parties. The  
5 prior judgment was entered by a court of competent  
6 jurisdiction. The prior order was a final judgment on its  
7 merits. And they involved the same causes of action.

8 Importantly, the members of the independent board,  
9 including Jim Seery, relied on the protections contained in  
10 the January 9th and July 16th orders and would not have  
11 accepted these appointments if the protections weren't  
12 included. And how do we know this? Because each of them,  
13 both Mr. Seery and Mr. Dubel, both testified at the  
14 confirmation hearing on this very topic.

15 And I would like to put up on the screen an excerpt from  
16 Mr. Seery's testimony at confirmation, which is testimony  
17 included in the February 2nd, 2021 transcript, which is  
18 Exhibit 2 of the Debtor's exhibits.

19 THE COURT: Okay.

20 MR. POMERANTZ: And I would like to just read this,  
21 Your Honor.

22 "Q Okay. You mentioned that there were certain  
23 provisions of the January 9th order that were important  
24 to you and the other independent directors. Do I have  
25 that right?"

1 MR. POMERANTZ: A little bit later on, Mr. Seery  
2 testifies:

3 "A And then ultimately there'll be another provision  
4 in the agreement here, I don't see it off the top of my  
5 head, but a gatekeeper provision. And that provision"  
6 --

7 "Q Hold on one second, Mr. Seery."

8 MR. POMERANTZ: Please scroll.

9 "Q So, Paragraph 4 and 5, were those -- were those --  
10 were those provisions put in there at the insistence of  
11 the prospective independent directors?

12 "A Yes.

13 "Q Okay. Can we go to Paragraph 10, please? There  
14 you go."

15 Mr. Morris: Is this the other provision that you were  
16 referring to?

17 "A This is -- it's become to be known as the  
18 gatekeeper provision, but it's a provision that I  
19 actually got from other cases -- again, another very  
20 litigious case -- that I thought it was appropriate to  
21 bring it into this case. And the concept here is that  
22 when you are dealing with parties that seem to be  
23 willing to engage in decade-long litigation and  
24 multiple forums, not only domestically but even  
25 throughout the world, it seemed important and prudent

1 to me and a requirement that I set out that somebody  
2 would have to come to this Court, the Court with  
3 jurisdiction over these matters, and determine whether  
4 there was a colorable claim. And that colorable claim  
5 would have to show gross negligence and willful  
6 misconduct -- i.e., something that would not otherwise  
7 be indemnifiable" --

8 MR. POMERANTZ: Hold on one second.

9 "A So, basically, it set an exculpation standard for  
10 negligence. It exculpates the directors from  
11 negligence, and if somebody wants to bring a cause  
12 against the directors, they have to come to this Court  
13 first to get a finding that there's a colorable claim  
14 for gross negligence or willful misconduct."

15 "Q Would you have accepted the engagement as an  
16 independent director without the Paragraphs 4, 5, and  
17 10 that we just looked at?

18 "A No, these were very specific requests. The  
19 language here has been smithed, to be sure, but I  
20 provided the original language for Paragraph 10 and  
21 insisted on the guaranty provisions above to ensure  
22 that the indemnity would have some support.

23 "Q And ultimately did the Committee and the Debtor  
24 agree to provide all the protections afforded by  
25 Paragraphs 4, 5, and 10?

1 "A Yes."

2 MR. POMERANTZ: So, Your Honor, these -- this  
3 testimony also applied to as well as the CEO.

4 The testimony was echoed by Mr. Dubel, another member of  
5 the board. And I'm not going to put his testimony on the  
6 screen, but it can be found at Pages 272 to 281 of Exhibit 2,  
7 which is the February 2nd transcript.

8 Movants argue, however, that res judicata doesn't apply  
9 because the Court didn't have jurisdiction to enter these  
10 orders. And they argue that the order stripped the District  
11 Court of this jurisdiction. As I previously described, the  
12 Debtor is prepared to modify the governance orders to provide  
13 that the Court shall retain jurisdiction to -- on claims that  
14 pass through the gate only to the extent legally permissible.  
15 The modification does not appear to be good enough for the  
16 Movants. They continue to argue that the Bankruptcy Court  
17 can't even act as the exclusive gatekeeper to determine  
18 whether such actions are colorable as a prerequisite for  
19 commencing or pursuing an action.

20 The problem Movants run into is the Fifth Circuit's  
21 opinion of *Republic v. Shoaf* and various Supreme Court  
22 decisions, including *Espinosa*.

23 In *Shoaf*, the Fifth Circuit held that a party cannot  
24 subsequently challenge a confirmed plan that clearly and  
25 unambiguously released a third party, even if the Bankruptcy

1 Court lacked jurisdiction to approve the release in the first  
2 place. Movants' proper recourse was to appeal the governance  
3 orders, not to seek to collaterally attack them.

4 In *Shoaf*, the Fifth Circuit held that the confirmed plan  
5 was res judicata with respect to a suit by the creditor  
6 against the guarantor. And in so ruling, the Fifth Circuit  
7 says that the prong of res judicata standard that requires an  
8 order, prior order to be made by a court of competent  
9 jurisdiction is satisfied regardless of whether the issue was  
10 actually litigated. This is because whenever a court enters  
11 an order, it does so by implicitly making a finding of its  
12 jurisdiction, a determination that can't be attacked. And in  
13 fact, in the January 9th and the July 16th orders, it wasn't  
14 implicit, the Court's jurisdiction; it was set out that the  
15 Court had core jurisdiction.

16 Movants try to brush *Shoaf* aside, arguing that is the only  
17 case the Debtor cites to support res judicata argument and is  
18 a narrow opinion that has been questioned and distinguished.  
19 That's just not correct, Your Honor. Movants ignore that we  
20 have cited two United States Supreme Court cases, *Stoll v.*  
21 *Gottlieb* and *Chicot County Drainage District*, upon which the  
22 Fifth Circuit based its *Shoaf* decision. In each case, the  
23 U.S. Supreme Court gave res judicata effect to a Bankruptcy  
24 Court order that made a ruling party -- that a ruling party  
25 later claimed was beyond the Court's jurisdiction to do so.

1 In *Stoll*, it was a release of guaranty without jurisdiction,  
2 like *Shoaf*. In *Chicot*, it was an extinguishment of a bond  
3 claim without jurisdiction.

4 Similarly, Your Honor, the U.S. Supreme Court held in  
5 *Espinosa* that a party was not entitled to reconsideration of a  
6 Bankruptcy Court order under Federal Rule of Civil Procedure  
7 60(b)(4) discharging a student loan without making the  
8 required statutory finding of undue hardship in an adversary  
9 proceeding. And the Supreme Court reasoned in that opinion as  
10 follows: A judgment is not void, for example, simply because  
11 it may have been erroneous. Similarly, a motion under  
12 60(b)(4) is not a substitute for a timely appeal. Instead,  
13 60(b)(4) applies only in the rare instance where a judgment is  
14 premised either on a certain type of jurisdictional error or a  
15 violation of due process that deprives a party of notice or  
16 the opportunity to be heard.

17 Federal courts considering Rule 60(b)(4) motions that  
18 assert a judgment is void because of a jurisdictional defect  
19 generally have reserved it only for the exceptional case in  
20 which the court that rendered the judgment lacked even an  
21 arguable basis for jurisdiction. This case is not the  
22 exceptional -- exceptional circumstance that was referred to  
23 by *Espinosa*.

24 In addition, we argue in our brief, and I'll get to in a  
25 few moments, that both of the orders are justified under the

1 *Barton* doctrine.

2       Actually, before I go to that, Your Honor, I think Movants  
3 are really trying to distinguish *Espinosa* by arguing that the  
4 Court's order exculpating Mr. Seery for negligence liability  
5 did not provide people, mom-and-pop investors, with the due  
6 process informing them that they would not be able to assert  
7 duty claims based upon mere negligence. I think that's the  
8 core of Mr. Bridges' argument, that, hey, you entered an  
9 order, you gave this exculpation, it was inappropriate, and it  
10 couldn't be done.

11       There are several problems with Movants' argument. First,  
12 Movants mischaracterize both the facts and the law in  
13 connection with the Debtor's relationship with its investors.  
14 The Debtor is the registered investment advisor for HCLOF as  
15 well as approximately 15 to 18 CLOs. The only investor in  
16 HCLOF other than the Debtor is CLO Holdco. The investors in  
17 the CLOs are the retail funds advised by the Dondero advisors  
18 and the other -- and other institutional investors.  
19 Accordingly, the thousands of investors, the mom-and-pop  
20 investors whose due process rights have allegedly been  
21 trampled by the January 9th and July 16th orders, are not  
22 investors in any funds managed by the Debtor.

23       And, of course, I have mentioned, as I've mentioned  
24 before, no non -- non-Dondero investor, be it a mom-and-pop  
25 investor, another institutional investor, anyone unrelated to



1 Mr. Dondero, has ever appeared in this Court to challenge the  
2 Debtor's activities.

3 But more fundamentally, Your Honor, the Debtor does not  
4 owe fiduciary duties to investors in any of the funds that the  
5 Debtor advises. The fiduciary duty that the Debtor owes is to  
6 the funds themselves, not the investors in the funds.

7 And while Movants point to Mr. Seery's prior testimony to  
8 support the argument that the Debtor owes a duty to investors,  
9 Mr. Seery was not testifying as a lawyer and his testimony  
10 just cannot change the law.

11 As to each of the funds that the Debtor manages, HCLOF and  
12 the CLOs, they were each provided with actual notice of the  
13 January 16th -- the July 16th order and didn't object. And as  
14 Your Honor will recall, the Trustees for the CLOs, the party  
15 that could potentially have claims for breach of fiduciary  
16 duty, they participated in the January 9th hearing. They came  
17 to the Court and were concerned about the protocols that the  
18 Debtor was agreeing to with the Committee. We revised them.  
19 The Trustees didn't object. They didn't object then; they  
20 didn't object now. And, in fact, they consented to the  
21 assumption of the contracts between the Debtor and the CLOs.

22 So the argument that the orders, by having this  
23 exculpation for future conduct, violated due process rights of  
24 anyone and is the type -- essentially, the type of order that  
25 *Espinosa* would have contemplated could be attacked, is --

1 relies on faulty legal and factual premises. No duty to  
2 investors. No private right of action. And both -- and all  
3 the funds received due process.

4 In addition, Your Honor, as we argue in our brief and I'll  
5 get to in a few moments, both of the orders are justified  
6 under the *Barton* doctrine, as Mr. Seery is entitled to  
7 protection based upon how courts around the country have  
8 interpreted the *Barton* doctrine. As such, Mr. Seery is  
9 performing his role both as an agent of the independent board  
10 under the January 9th order, as a CEO under the July 16th  
11 order, as a quasi-judicial officer. And as Your Honor  
12 examined in the *Ondova* opinion which you mentioned, trustees  
13 are entitled to qualified immunity for damage to third parties  
14 resulting from simple negligence, provided that the trustee is  
15 operating within the scope of his duties and is not acting in  
16 an *ultra vires* manner.

17 So, exculpating the independent directors, their agents,  
18 and the CEO in the January 9th and July 16th orders was a  
19 recognition by this Court that they would be entitled to  
20 qualified immunity, much in the same way trustees are.

21 No doubt that Movants contend that this was error and that  
22 the Court overreached. However, the remedy for that overreach  
23 was an appeal, not a reconsideration 16 months later. The  
24 Court's orders based upon the determination that in this  
25 highly contentious case that these court officers needed to be

1 protected from negligence suits is not the exceptional case  
2 where the Court lacked any arguable basis for jurisdiction.  
3 Accordingly, this Court must follow *Espinosa*, *Shoaf*, *Stoll*,  
4 and *Chicot* and reject the attack on the prior court orders.

5 The only case Movants cite to challenge the Supreme  
6 Court's decision -- to challenge the Supreme Court precedent I  
7 mentioned and the Fifth Circuit's *Shoaf* decision is the  
8 *Applewood* case. *Applewood* is totally consistent with *Shoaf*.  
9 *Applewood* also involved a plan that purported to release a  
10 guaranty claim that the guarantor argued was res judicata in  
11 subsequent litigation regarding the guaranty. The Fifth  
12 Circuit held in that case that the plan was not res judicata.  
13 It made that ruling because the plan did not contain clear and  
14 unambiguous language releasing the guaranty. In that way, the  
15 Fifth Circuit distinguished *Shoaf*.

16 *Applewood* and *Shoaf* are consistent. A Bankruptcy Court  
17 order will be given res judicata effect, even if the Court  
18 didn't have jurisdiction to enter it, if the order was clear  
19 and unambiguous. In *Shoaf*, the release was. In *Applewood*, it  
20 wasn't.

21 Movants argued on June 8th and argue now that the  
22 *Applewood* case really argues -- really deals with prospective  
23 exculpation of claims. I went back and read Mr. Bridges'  
24 comments carefully of June 8th. He said *Applewood*,  
25 exculpation. Well, that's just not correct. *Applewood* is all

1 about requiring specificity of a (garbled) to give it res  
2 judicata effect. Claims that existed at that time, were they  
3 described clearly and unambiguously? Yes? *Shoaf* applies.  
4 No? *Applewood* does -- applies.

5 So how should the Court apply these principles here? The  
6 Court approved a procedure for certain claims in the  
7 governance orders. The procedure: come to Bankruptcy Court  
8 before pursuing a claim against the independent directors and  
9 Seery or their agents so that the Court can make a  
10 colorability determination. Clear and unambiguous. The  
11 governance orders each provide that the Bankruptcy Court had  
12 jurisdiction to enter the orders, and the orders were not  
13 appealed.

14 Movants attempt to confuse the Court and argue *Applewood*  
15 is on point because the January 9th and July 16th orders do  
16 not clearly identify specific claims that Movants now have  
17 that are being released. And because they're not specific,  
18 then basically it's an ambiguous release and *Applewood*  
19 applies.

20 The problem with the Movants' argument is that neither the  
21 January 9th or July 16th orders released claims that existed  
22 at that time. If they did, and if there wasn't an adequate  
23 description, I might agree with Mr. Bridges that *Applewood*  
24 applied. But there were no claims. It was prospective. It  
25 was a standard of care. The Court clearly and unambiguously

1 said what the standard of care would be going forward.

2 Clearly, under *Shoaf* and Supreme Court precedent, they are  
3 entitled to res judicata because it's a clear and unambiguous  
4 provision. *Applewood* just simply doesn't apply.

5 Mr. Phillips at the last hearing made an impassioned plea  
6 to the Court for a narrow interpretation of the exculpation  
7 provisions in the January 9th and July 16th orders, and he  
8 argued that the Court could not possibly have intended for the  
9 exculpation for negligence to apply on a go forward basis. He  
10 thus argued to the Court that the Court should construe the  
11 exculpation narrowly and only apply it to potential claims of  
12 harm caused to the Debtor, as opposed to harm caused to third  
13 parties, which he said included thousands of innocent  
14 investors.

15 Of course, Mr. Phillips made those arguments unburdened by  
16 the actual facts and the prior proceedings which led to the  
17 entry of these orders, because, as he was the first to admit,  
18 he only became involved in the case a month ago.

19 As the Court recalls, and as reinforced by Mr. Seery's and  
20 Mr. Dubel's testimony I just mentioned, the exculpation  
21 provisions were included precisely to prevent Mr. Dondero,  
22 through any one of the entities he's owned and controlled, the  
23 Movants being two of those, from asserting baseless claims  
24 against the beneficiaries of those orders, exactly the  
25 situation Mr. Seery now finds himself in.

1           And, again, it bears emphasizing: throughout this case,  
2 not one of the purported public investors Mr. Phillips  
3 lamented would be prevented from holding Mr. Seery responsible  
4 for his conduct has ever appeared in this case to object about  
5 anything. And none of the directors of the funds, the funds  
6 where the Debtor acts as an investment adviser, have ever  
7 stepped foot in this court, either.

8           Even if the Court declines to apply res judicata, Your  
9 Honor, to prevent challenges to the governance orders, the  
10 Court has the jurisdiction, had the jurisdiction to include  
11 the gatekeeping provisions in those orders. The Bankruptcy  
12 Court derives its jurisdiction from 28 U.S.C. Section 157, and  
13 bankruptcy jurisdiction is divided into two parts: core  
14 matters, which are those arising in or arising under Title 11,  
15 and noncore matters, those matters which are related to a  
16 Chapter 11 case.

17           Bankruptcy Courts may enter final orders in core  
18 proceedings, and with the consent of parties, noncore  
19 proceedings. If a party does not consent to a final judgment  
20 in the noncore matters or waives its right to consent, then  
21 the Bankruptcy Court -- or does not waive its right to  
22 consent, then the Bankruptcy Court issues a report and  
23 recommendation to the District Court.

24           The seminal Fifth Circuit case on bankruptcy court  
25 jurisdiction is the 1987 case of *Wood v. Wood*, 825 F.2d 90.

1 There, the Fifth Circuit held that the Bankruptcy Court has  
2 related to jurisdiction over matters if the outcome of that  
3 proceeding could conceivably have any effect on the estate  
4 being administered in the bankruptcy.

5 More recently, the Fifth Circuit, in the 2005 case, in  
6 *Stonebridge Tech's*, elaborated on when a matter has a  
7 conceivable effect on the estate such as to confer Bankruptcy  
8 Court jurisdiction. There, the Fifth Circuit held that an  
9 action is related to bankruptcy if the outcome could alter the  
10 debtor's rights, liabilities, options, or freedom of action,  
11 either positively or negatively, and which in any way impacts  
12 upon the handling and the administration of the bankruptcy  
13 estate. It is against this backdrop, Your Honor, that the  
14 Court should evaluate its jurisdiction to have entered the  
15 orders.

16 So, again, what did the orders do? They established  
17 governance over the Chapter 11 debtor with new independent  
18 directors being approved. They established the procedures and  
19 protocols of how transactions were going to be presented to  
20 and approved by the Committee. They vested in the Committee  
21 certain related-party claims, and they provided for the  
22 procedures parties would have to follow to assert any claims  
23 against the independent directors and the CRO and the agents  
24 and advisors.

25 Your Honor, it's hard to imagine that there is a more core



1 order than the entry of these orders. At the time the orders  
2 were entered, the Court was well aware of the potential for  
3 acrimony from Mr. Dondero and his related entities, and  
4 included the gatekeeper provisions to prevent the Debtor's  
5 estate from being embroiled in frivolous litigation against  
6 the board and the CEO.

7 Such protections were clearly within the Court's  
8 jurisdiction, both to protect the administration of the estate  
9 but also under applicable Fifth Circuit law dealing with  
10 vexatious litigants, as set forth in the *Baum* and *Carroll*  
11 cases that the Court cited in its confirmation order.

12 Not that it was hard to predict, but the last several  
13 months have reinforced how important the gatekeeping  
14 provisions in the order are and how important similar  
15 provisions in the plan are.

16 The Court heard extensive testimony at the confirmation  
17 hearing regarding the havoc continued litigation by Mr.  
18 Dondero and his related entities would cause, which  
19 predictions have unfortunately been borne out by the  
20 unprecedented blizzard of litigation involving Mr. Dondero and  
21 his related entities that has consumed the Court over the last  
22 several months and caused the estate to incur millions of  
23 dollars in fees that could have been used to pay its  
24 creditors.

25 And these attacks are continuing. As I mentioned before,

1 in addition to the DAF lawsuit, Sbaiti & Co. filed an action  
2 against the Debtor on behalf of PCMG, another related entity,  
3 alleging postpetition mismanagement of the Select Fund.

4 And to complete the hat trick, they are the lawyers  
5 seeking to sue Acis in the Southern District of New York for  
6 allegedly post-confirmation matters.

7 The Court knew then and certainly knows now that the  
8 potential for sizable indemnification claims could consume the  
9 estate. The Court used that as the potential basis for  
10 determining that the orders were within its jurisdiction, just  
11 as it used that potential to justify the exculpation  
12 provisions in the plan as being consistent with *Pacific*  
13 *Lumber*.

14 Movants also ignore the cases -- and we cited in our  
15 opposition -- where courts in this district, including Judge  
16 Lynn in *Pilgrim's Pride* in 2010 and Judge Houser in the *CHC*  
17 *Group* in 2016, approved gatekeeper provisions that provided  
18 the Bankruptcy Court with exclusive jurisdiction to adjudicate  
19 claims against postpetition fiduciaries.

20 Movants also ignore cases outside this district, including  
21 *General Motors* and *Madoff*, which we cited in our brief as  
22 examples of cases where Bankruptcy Courts have been used as  
23 gatekeepers to determine if claims are colorable or being  
24 asserted against the correct entity.

25 And there's another reason, Your Honor, why Movants may

1 now not contest the Court's jurisdiction to have entered those  
2 orders. Each of those orders, as I said before, include a  
3 finding that the Court had core jurisdiction to enter the  
4 orders. No party contested that finding or refused to consent  
5 to the core jurisdiction.

6 Under well-established Supreme Court precedent, parties  
7 can waive their right to challenge the Bankruptcy Court's  
8 jurisdiction, core jurisdiction, by failing to object. In  
9 *Wellness v. Sharif* in 2015, the Supreme Court expressly held  
10 that Article III was not violated if parties knowingly and  
11 voluntarily consented to adjudication of *Stern v. Marshall*-  
12 type alter ego claims, and that the consent need not be  
13 express, so long as it was knowing and voluntary.

14 And *Wellness* confirmed the pre-*Stern* opinion of the Fifth  
15 Circuit in the 1995 *McFarland* case, which held that a person  
16 who fails to object to the Bankruptcy Court's assumption of  
17 core jurisdiction is deemed to have consented to the entry of  
18 a final order by the Bankruptcy Court.

19 Your Honor, I'd now like to turn to the *Barton* doctrine.  
20 The Court also has jurisdiction to have entered the orders  
21 based upon the *Barton* doctrine. The *Barton* doctrine dates  
22 back to an old United States Supreme Court case and provides  
23 as a general rule that, before a suit may be brought against a  
24 trustee, consent from the appointing court must be obtained.

25 Movants essentially make two arguments why the *Barton*

1 doctrine doesn't apply.

2 First, Movants, without citing any authority, argue that  
3 it does not apply to Mr. Seery because he is not a trustee or  
4 receiver and was not appointed by the Court. Although the  
5 doctrine was originally applied to receivers, it has been  
6 extended over time to cover various court-appointed  
7 fiduciaries and their agents in bankruptcy cases, including  
8 debtors in possession, officers and directors of the debtor,  
9 and the general partner of the debtor. And although Mr.  
10 Bridges says he couldn't find one case that applied the *Barton*  
11 doctrine to a court-retained professional, I will now talk  
12 about several such cases.

13 In *Helmer v. Pogue*, a 2012 case cited in our brief, the  
14 District Court for the Northern District of Alabama  
15 extensively analyzed the *Barton* doctrine jurisprudence from  
16 the Eleventh Circuit and beyond and concluded that it applied  
17 to debtors in possession. The *Helmer* Court relied in part on  
18 a prior 2000 decision of the Eleventh Circuit in *Carter v.*  
19 *Rodgers*, which held that the doctrine applies to both court-  
20 appointed and court-approved officers of the debtor, which is  
21 consistent with the law in other circuits.

22 And subsequently, the Eleventh Circuit again considered --  
23 and in that case, the distinction of a court-appointed as a  
24 court-retained professional was -- was not persuasive to the  
25 Court, and the Court held that a court-retained professional

1 can still have *Barton* protection, notwithstanding that he  
2 wasn't appointed, the argument that Mr. Bridges tries to make.

3 And subsequently, --

4 THE COURT: I wonder, was that -- was that Judge  
5 Clifton Jessup, by chance? Or maybe Bennett?

6 MR. POMERANTZ: Your Honor, this was -- this was the  
7 Eleventh Circuit *Carter v. Rodgers*, so I think Judge Jessup  
8 was --

9 THE COURT: Oh, I thought you were still talking  
10 about the Alabama case. No?

11 MR. POMERANTZ: Yeah, the Alabama -- well, the  
12 Alabama case referred to the Eleventh Circuit case, *Carter v.*  
13 *Rodgers*, --

14 THE COURT: Okay.

15 MR. POMERANTZ: -- and the appointment and -- or  
16 retention issue was discussed in the *Carter v. Rodgers* case.

17 THE COURT: Okay.

18 MR. POMERANTZ: And subsequently, the Eleventh  
19 Circuit again considered the contours of the *Barton* doctrine  
20 in *CDC Corp.*, a 2015 case, 2015 U.S. App. LEXIS 9718. In that  
21 case, which Your Honor referenced in your *Ondova* opinion,  
22 which I will discuss in a few moments, the Eleventh Circuit  
23 held that a debtor's general counsel who had been approved by  
24 the Court, who was appointed by a chief restructuring officer  
25 who was also approved by the Court, was covered by the *Barton*

1 doctrine for acts taken in furtherance of the administration  
2 of the estate and the liquidation of the assets.

3 And the Eleventh Circuit last year, in *Tufts v. Hay*, 977  
4 F.3d 204, reaffirmed that court-approved counsel who function  
5 as the equivalent of court-appointed officers are entitled to  
6 protection under *Barton*. While the Court in that case  
7 ultimately ruled that counsel could be sued without first  
8 going to the Bankruptcy Court, it did so because it determined  
9 that the suit between two sets of lawyers would not have any  
10 effect on the administration of the estate.

11 So, Your Honor, not only is there authority, there is  
12 overwhelming authority that Mr. Seery is entitled to the  
13 protections.

14 In *Gordon v. Nick*, a District -- a case from 1998 from the  
15 Fourth Circuit, the Court that the *Barton* doctrine applied to  
16 a lawsuit against a general partner who was responsible for  
17 administering the bankruptcy estate.

18 And as I mentioned, Your Honor, and as Your Honor  
19 mentioned, Your Honor had reason to look at the *Barton*  
20 doctrine in length and in depth in the 2017 *Ondova* opinion.  
21 And in the course of the opinion, Your Honor discussed one of  
22 the policy rationales for the doctrine, which you took from  
23 the Seventh Circuit's *Linton* opinion, and you said as follows:  
24 "Finally, another policy concern underlying the doctrine is a  
25 concern for the overall integrity of the bankruptcy process

1 and the threat of trustees being distracted from or  
2 intimidated from doing their jobs. For example, losers in the  
3 bankruptcy process might turn to other courts to try to become  
4 winners there by alleging the trustee did a negligent job."

5 Here, the independent board was approved by the Court as  
6 an alternative to the appointment of a Chapter 11 trustee.  
7 And it and its agent, including Mr. Seery as the CEO, even  
8 before the July 16th order, were provided protections in the  
9 form of the gatekeeper order and exculpation.

10 I'm sure the Court has a good recollection of the January  
11 9th hearing -- we've talked about it a lot in the proceedings  
12 before Your Honor -- where the Debtor and the Committee  
13 presented the governance resolution to Your Honor. And as  
14 Your Honor will recall, the appointment of the board was a  
15 hotly-contested issue among the Debtor and the Committee and  
16 was heavily negotiated. And the appointment of the  
17 independent board was even contested by the United States  
18 Trustee at a hearing on January 20th, 2020.

19 I refer the Court to the transcripts of the hearings on  
20 January 9th and January 20th of 2020, which clearly  
21 demonstrate that appointing this board and giving it the  
22 rights and protections and its agents the rights and  
23 protections was not your typical corporate governance issue,  
24 but it was essentially the Court's alternative to appointing a  
25 trustee. And recognizing that the members of the independent



1 board were essentially officers of the Court, the Court  
2 approved the gatekeeper provision, requiring parties first to  
3 come and seek the Court's permission before suing them, in  
4 order to prevent them from being harassed by frivolous  
5 litigation.

6 And the independent board was given the responsibility in  
7 the January 9th order to retain a CEO it deemed appropriate,  
8 and it did so by retaining Mr. Seery.

9 Recognizing the *Barton* doctrine as it applies to Mr. Seery  
10 is consistent with a legion of cases throughout the United  
11 States, and Movants' argument that Mr. Seery is not court-  
12 appointed is just wrong.

13 Second, Your Honor, Movants cite without any authority,  
14 argue that even if the *Barton* doctrine applied there is an  
15 exception which would allow it to pursue a claim against Mr.  
16 Seery without leave of the Court.

17 The Debtor agrees the 28 U.S.C. § 959 is an exception to  
18 the *Barton* doctrine. Section 959(a) provides that trustees,  
19 receivers, or managers of any property, including debtors in  
20 possession, may be sued without leave of the court appointing  
21 them with respect to any of their acts or transactions in  
22 carrying on business connected with such property.

23 As the Court also pointed out at the June 8th hearing, and  
24 Mr. Bridges alluded to in his argument, the last sentence of  
25 959(a) provides that such actions -- clearly referring to

1 actions that may be pursued without leave of the appointing  
2 court -- shall be subject to the general equity power of such  
3 court, so far as the same may be necessary to the ends of  
4 justice.

5 And Mr. Bridges made a plea, saying you can't take away my  
6 jury trial right there. You just cannot do that. Well, I  
7 have two answers to that, Your Honor. One, they relinquished  
8 their jury trial right. We've established that. Okay?

9 The second is allowing Your Honor to act as a gatekeeper  
10 has nothing to do with their jury trial right. Allowing Your  
11 Honor to act as a gatekeeper allows you to determine whether  
12 the action could go forward, and it'll either go forward in  
13 Your Honor's court or some other court.

14 And the argument that the exculpation was essentially a  
15 violation of 959 is just -- is just -- it just is twisting  
16 what happened. You have an exculpation provision. We already  
17 went through the authority the Court had to give an  
18 exculpation. With respect to these litigants who are before  
19 Your Honor -- we're not talking about anyone else who's coming  
20 in to try to get relief from the order; we're talking about  
21 these litigants -- we've already established that they were  
22 here, they're bound by res judicata. So their 959 argument  
23 goes away.

24 And as the Court -- and separate and apart from that, the  
25 issue at issue in the District Court litigation is -- is not

1 even subject to 959.

2 Mr. Bridges says, well, of course it is because it deals  
3 with the administration of the estate. I'd like to refer to  
4 what the Court said -- this Court said in its *Ondova* opinion:  
5 The exception generally applies to situations in which the  
6 trustee is operating a business and some stranger to the  
7 bankruptcy process might be harmed, such as a negligence claim  
8 in a slip-and-fall case, and is inapplicable to suits based  
9 upon actions taken to further the administering or liquidating  
10 the bankruptcy estate.

11 And your *Ondova* opinion is consistent with the Third and  
12 Eleventh Circuit opinions Your Honor cited in your opinion, as  
13 well as numerous other --

14 (Interruption.)

15 MR. POMERANTZ: -- from the -- from around the  
16 country, including cases from the First, Second, Sixth,  
17 Seventh, and Ninth Circuits. And I'm not going to give all  
18 the cites to those cases, but it's not a -- it's not a  
19 remarkable proposition that Your Honor relied on in *Ondova*.

20 In addition, several of these cases, including the  
21 Eleventh Circuit's *Carter* opinion, have been cited with  
22 approval by the Fifth Circuit in *National Business Association*  
23 *v. Lightfoot*, a 2008 unpublished opinion for this very point.  
24 The *Barton* exception of 959 does not apply to actions taken in  
25 the administration of the case and the liquidation of assets

1 in the estate.

2 Suffice it to say that it's clear that the Section 959  
3 exception to *Barton* has no applicability in this case.  
4 Movants, hardly strangers to the bankruptcy case, want to sue  
5 Mr. Seery for acts taken relating to a settlement of very  
6 complex and significant claims against the estate. They want  
7 to sue a court-appointed fiduciary for doing his job,  
8 resolving claims against the estate and his management of the  
9 bankruptcy estate. And they want to do this outside of the  
10 Bankruptcy Court.

11 Settlement of the HarbourVest claim, which is where this  
12 claim arises under -- whether it's a collateral attack now or  
13 not, and we say it is, is for another issue -- but it clearly  
14 arises in the context of settlement of the HarbourVest claim,  
15 is the quintessential act to further the administration and  
16 liquidation of the bankruptcy estate, and certainly doesn't  
17 fall within the 959 exception.

18 Movants seem to be arguing that 959(a) makes a distinction  
19 between claims against Mr. Seery that damaged the Debtor and  
20 claims against Mr. Seery that damaged third parties. However,  
21 the Movants make up that distinction, and it's not in the  
22 statute, it's not in the case law. The focus is not on who  
23 the conduct damages, but it's rather on whether the conduct  
24 was taken in connection with the administration or the  
25 liquidation of the estate.

1           And even if the Debtor is wrong, Your Honor, which it's  
2 not, the savings clause allows the Court to determine whether  
3 leave to be -- sue will be granted. Given that these claims  
4 are asserted by Dondero-related entities, if not controlled  
5 entities, no serious argument exists that the equities do not  
6 permit this Court to determine if leave to sue is appropriate.

7           Accordingly, Movants' argument that the orders create this  
8 tension with 959 is simply an over-dramatization. And in any  
9 event, Your Honor, there's a basis independent of *Barton* that  
10 supports the jurisdiction to enter the orders, as I mentioned.

11           But even if the orders only relied on *Barton*, there is an  
12 easy fix to Movants' concerns: let them come to court and  
13 argue that the type of suit they are bringing allegedly falls  
14 within the exception of 959.

15           Your Honor, Movants argue that the Bankruptcy Court may  
16 not act as a gatekeeper if it would not have jurisdiction to  
17 deal with the underlying action. They essentially argue that  
18 an Article I judge may not pass on the colorability of a  
19 claim, that it should be decided by an Article III judge.  
20 This is the same argument, Your Honor, that Your Honor  
21 rejected in connection with plan confirmation and which I  
22 touched on earlier.

23           And the reason why Your Honor rejected it is because  
24 there's no law to support it. In fact, there is Fifth Circuit  
25 law that holds to the contrary. And we talked about a little

1 bit the Fifth Circuit case decided is *Villegas v. Schmidt* in  
2 2015. And *Villegas* is a simple case. Schmidt was appointed  
3 trustee over a debtor and liquidated its estate and the  
4 Bankruptcy Court approved his final fees. Four years later,  
5 Villegas and the prior debtor sued Schmidt in District Court,  
6 the district in which the Bankruptcy Court was pending,  
7 arguing that he was negligent in the performance of his  
8 duties. The District Court dismissed the case because  
9 Villegas failed to obtain Bankruptcy Court approval to bring  
10 the suit under the *Barton* doctrine.

11 On appeal, Villegas argued *Barton* didn't apply for two  
12 reasons. First, that *Stern v. Marshall* created an exception  
13 to the *Barton* doctrine for claims that the Bankruptcy Court  
14 would not have the jurisdiction to adjudicate. And second,  
15 that *Barton* did not apply if the suit is brought in the  
16 District Court, which exercises supervisory authority over the  
17 Bankruptcy Court that appointed the trustee. Pretty much the  
18 argument that was made by Movants at the contempt hearing.

19 The Fifth Circuit rejected both arguments. It held that  
20 the existence of a *Stern* claim does not impact the Bankruptcy  
21 Court's authority because *Stern* did not overrule *Barton* and  
22 the Supreme Court had cautioned circuit courts against  
23 interpreting later cases as impliedly overruling prior cases.

24 More importantly, the Fifth Circuit pointed to a post-  
25 *Stern* 2014 case, *Executive Benefits v. Arkison*, 573 U.S. 25

1 (2014), which held that *Stern* does not decide how a Bankruptcy  
2 Court or District Courts should proceed when a *Stern* creditor  
3 is identified, as support for the argument that *Barton* is  
4 still good law, even dealing with a *Stern* claim.

5 Second, the Fifth Circuit, joining every circuit to have  
6 addressed the issue, ruled that the District Court and the  
7 Bankruptcy Court are distinct from one another and the  
8 Bankruptcy Court has the exclusive authority to determine the  
9 colorability of *Barton* claims and that the supervisory  
10 District Court does not.

11 Movants didn't address *Villegas* in their reply. Briefly  
12 tried to distinguish it, unconvincingly, today. The bottom  
13 line is *Villegas* is directly applicable. Your Honor cited it  
14 in the *Ondova* opinion for precisely the proposition that  
15 *Barton* applies whether or not the Court has authority to  
16 adjudicate the claim.

17 Accordingly, Your Honor, it was within the Court's  
18 jurisdiction to require a party to seek approval of Your Honor  
19 on the colorability of a claim before an action may be  
20 commenced or pursued against the protected parties, even if  
21 Your Honor wouldn't have authority to adjudicate the claim at  
22 the end of the day.

23 In fact, some courts have even addressed the proper  
24 procedure for doing so, requiring the putative plaintiff to  
25 not only seek leave of Bankruptcy Court but also to provide a



1 draft complaint and a basis for the Court to determine if the  
2 claim is colorable.

3 Movants have done neither, and they should not be  
4 permitted to modify the final orders of the Court as a  
5 workaround.

6 Your Honor, that concludes my presentation. I'm happy to  
7 answer any questions Your Honor may have.

8 THE COURT: All right. Not at this time. All right.  
9 I'm going to figure out, do we need a break or not, depending  
10 on what Mr. Bridges tells me. I assume we're just doing this  
11 on argument today. I think that's what I heard. No witnesses  
12 or exhibits.

13 MR. BRIDGES: That is correct, Your Honor.

14 THE COURT: Okay. Mr. Bridges, how long do you  
15 expect your rebuttal to take so I can figure out does the  
16 Court need a break?

17 MR. BRIDGES: Fifteen minutes plus whatever it takes  
18 to submit agreed-to exhibits.

19 THE COURT: Okay. Let's take a five-minute bathroom  
20 break. We'll come back. It's -- what time is it? It's 1:11  
21 Central time. We'll come back in five minutes.

22 THE CLERK: All rise.

23 (A recess ensued from 1:11 p.m. until 1:17 p.m.)

24 THE CLERK: All rise.

25 THE COURT: All right. Please be seated. We're

1 going back on the record in the Highland matters.

2 Mr. Bridges, time for your rebuttal. I want to ask you a  
3 question right off the bat. Mr. Pomerantz pointed out  
4 something that was on my list that I forgot to ask you when  
5 you made your initial presentation. What is the authority  
6 you're relying on? You did not cite a statute or a rule *per*  
7 *se*, but I guess we can probably all agree that Bankruptcy Rule  
8 9024 and Federal Rule 60 is the authority that would govern  
9 your motion, correct?

10 MR. BRIDGES: I don't agree, Your Honor. I don't  
11 believe this is a final order that we're contesting here. And  
12 I think that's demonstrated by the Court's final confirmation  
13 -- plan -- plan confirmation order that seeks to modify this  
14 order or will modify this order upon being -- being effective.  
15 So I don't think so.

16 In the alternative, if we are challenging a final order,  
17 then I think you're right as to the rules that would be  
18 controlling.

19 THE COURT: All right. Well, let me back up. Why  
20 exactly do you say this would be an interlocutory order as  
21 opposed to a final order?

22 MR. BRIDGES: Because of its nature, Your Honor.  
23 While the appointment in the order or the approval of the  
24 appointment in the order might, as a separate component of the  
25 order, have -- have finality, the provisions -- the provisions

1 in it relating to gatekeeping and exculpation are, we think,  
2 by their very nature, quite obviously interlocutory and not  
3 permanent. They don't seem to indicate an intention by any of  
4 the parties that, 30 years from now, if Mr. Seery is still CEO  
5 at Highland, long after the bankruptcy case has ended, that  
6 nonetheless parties would be prohibited from bringing claims,  
7 strangers to this action would be prohibited from bringing  
8 claims related to his CEO role.

9 I think the nature of it demonstrates that, the  
10 modifications to it, and even the inclusion of it in the final  
11 plan confirmation, as well as -- can't read that.

12 THE COURT: Can you give me some authority? Because  
13 as we know, there's a lot of authority out there in the  
14 bankruptcy universe on what discrete orders are interlocutory  
15 in nature that a bankruptcy judge might routinely enter and  
16 which ones are final. You know, it would just probably, if I  
17 flipped open *Collier's*, I could -- you know, it would be mind-  
18 numbing.

19 So what authority can you rely on? I mean, is there any  
20 authority that says an employment order is not a final order?  
21 That would be shocking to me if you have cases to that effect,  
22 but, I mean, of course, sometimes we do interim on short  
23 notice and then final. But this would be shocking to me if  
24 there is case authority to support the argument this is not a  
25 final order. But I learn something new every day, so maybe I

1 would be shocked and there is.

2 MR. BRIDGES: Your Honor, I'd point you to *In re*  
3 *Smyth*, 207 F.3d 758, and *In re Royal Manor*, 525 B.K. 338  
4 [sic], for the proposition that retaining a bankruptcy  
5 professional is an interlocutory order.

6 THE COURT: Okay. Stop for a moment. The *Smyth*  
7 case. Which court is that?

8 MR. BRIDGES: Fifth Circuit.

9 THE COURT: Okay. So tell me the facts. I'm  
10 surprised I don't know about this case. But, again, I don't  
11 know every case. So, it held that an employment order is an  
12 interlocutory order?

13 MR. BRIDGES: Appointing counsel. A professional in  
14 the bankruptcy context, Your Honor.

15 THE COURT: Counsel for a debtor-in-possession? An  
16 order approving counsel was an interlocutory order?

17 MR. BRIDGES: Yes, or the Trustee's counsel.

18 THE COURT: Or the Trustee's counsel? Okay. What  
19 were the circumstances? Was this on an expedited basis and  
20 there wasn't a follow-up final order, or what?

21 MR. BRIDGES: Your Honor, I don't have -- I don't  
22 have that at the tip of my memory. I'm sorry.

23 THE COURT: Okay. And the other one, 525 B.R. 338,  
24 what court was that?

25 MR. BRIDGES: It's a Bankruptcy Court within the

1 Sixth Circuit. I'm not certain which district.

2 THE COURT: All right. Well, maybe one of you two  
3 over there can look them up and give me the context, because  
4 that is surprising authority. Or other lawyers on the WebEx  
5 maybe can do some quickie research.

6 Okay. We'll come back to that. But assuming that this  
7 was a final order, which I have just been presuming it was,  
8 Rule 60 is the authority you're going under? 9024 and Rule  
9 60, correct?

10 MR. BRIDGES: Your Honor, we have not invoked those  
11 rules. Alternatively, I think you're right that they would  
12 control if we are wrong about the interlocutory nature of the  
13 order.

14 THE COURT: Well, you have to be going under certain  
15 -- some kind of authority when you file a motion. So I'm --

16 MR. BRIDGES: As an alternative --

17 THE COURT: I'm approaching this exactly, I assure  
18 you, as the District Court or a Court of Appeals would. You  
19 know, you start out, what is the legal authority that is being  
20 invoked here?

21 MR. BRIDGES: Well, --

22 THE COURT: So I just assume Rule 60. I can't, you  
23 know, come up with anything else that would be the authority.

24 MR. BRIDGES: Yes, Your Honor. You also have  
25 inherent power to modify orders that are in violation of the

1 law. And we pointed you to --

2 THE COURT: Now, is that right? Is that really  
3 right? Why do we have Rule 60 if I can just willy-nilly, oh,  
4 I feel like I got that wrong two years ago? I can't do that,  
5 can I? Rule 60 is the template for when a court can do that.  
6 Parties are entitled to rely on orders of courts. And that's  
7 why we have Rule 60, right? So, --

8 MR. BRIDGES: Your Honor, I think -- I think that  
9 we're miscommunicating. I'm trying not to rely on Rule 60 in  
10 the first instance because in the first instance we view this  
11 as not a final order. So, in the first instance, --

12 THE COURT: I got that. And I've got my law clerks  
13 looking up your cases to see if they convince me. But I'm  
14 asking you to go to layer two. Assuming I don't agree with  
15 you these are final orders, what is your authority for the  
16 relief you're seeking?

17 MR. BRIDGES: Yes, Your Honor. Rule 60 would apply  
18 in the alternative.

19 THE COURT: All right.

20 MR. BRIDGES: That's correct.

21 THE COURT: So, which provision? Which provision of  
22 Rule 60? (b) what?

23 MR. BRIDGES: Your Honor, I'm not prepared to concede  
24 any of them. I don't have the rule in front of me.

25 THE COURT: You're not prepared to concede what?

1 MR. BRIDGES: Any of the provisions of Rule 60. Just  
2 (b) (1), (b) (2), especially, but I'm -- I'm -- Rule 60 is our  
3 basis, as is the particulars (b) (1), (2), (6) --

4 (Garbled audio.)

5 THE COURT: Okay. You're breaking up. Can you  
6 restate?

7 MR. BRIDGES: (b) (1), (2), and (6), as -- as well as  
8 any other provision, Your Honor, of Rule 60.

9 THE COURT: Okay. Well, so (1), mistake,  
10 inadvertence, surprise, excusable neglect. Which one of  
11 those?

12 MR. BRIDGES: All of the above, Your Honor.

13 THE COURT: Surprise? Who's surprised?

14 MR. BRIDGES: Your Honor, I think every potential  
15 litigant who discovers that your order purports to bar  
16 prospective unaccrued claims at the time the order issued  
17 would be surprised.

18 Frankly, I think Mr. Seery would be surprised, given his  
19 testimony that he owes fiduciary duty -- duties that he must  
20 abide by and that he appears to have, as I continue to  
21 represent to clients, to advisees, and to the SEC, that those  
22 duties are owing.

23 THE COURT: Okay. I'm giving you one more chance  
24 here to make clear on the record what provision of Rule 60(b)  
25 are you relying on, okay? I need to know. It's not in your



1 pleading.

2 MR. BRIDGES: Your Honor, --

3 THE COURT: So tell me specifically. I can only --

4 MR. BRIDGES: -- (b) (1) --

5 THE COURT: -- come up with a result here if I know  
6 exactly what's being presented.

7 MR. BRIDGES: Your Honor, (b) (1), (b) (2), and (b) (6)

8 --

9 THE COURT: Which, okay, there are multiple parts to  
10 (1). You're saying somebody's surprised by the ruling. I  
11 don't know who. Really, all that matters is your client, the  
12 Movants. You're saying, even though they participated, --

13 MR. BRIDGES: Yes, Your Honor.

14 THE COURT: -- got notice, they're somehow surprised?  
15 Why are they surprised?

16 MR. BRIDGES: Yes, Your Honor.

17 THE COURT: Do you have evidence of their surprise?

18 MR. BRIDGES: Your Honor, our brief shows the  
19 intentions of all involved were not the interpretation of that  
20 order being advanced at this -- at this point in time. And  
21 so, yes, I believe that is evidence. The transcripts of the  
22 hearings I believe evidence that as well, that the  
23 understanding of everyone involved was not that future --  
24 unspecified future claims that had not accrued yet would be  
25 released under (b) (1). Yes, Your Honor.

1 THE COURT: Okay.

2 MR. BRIDGES: Under (b) (2), --

3 THE COURT: I don't have any evidence of that. All I  
4 have is the clear wording of the order. Okay. Let me just --  
5 just let me go through this.

6 Assuming Rule 60 (1) through (6) are what you're arguing  
7 here, what about Rule 60(c): a motion under Rule 60(b) must  
8 be made within a reasonable time? We're now 11 months --

9 MR. BRIDGES: Your Honor, --

10 THE COURT: We're now 11 months past the July 2020  
11 order. What is your authority for this being a reasonable  
12 time?

13 MR. BRIDGES: Yes, Your Honor. If I may back up one  
14 step before answering your question. Under (b) (2), we're  
15 relying on newly-discovered evidence that was discovered in  
16 late March and caused both the filing of this motion and the  
17 filing of the District Court action.

18 Under (b) (4), we believe that the order is --

19 THE COURT: Let me stop. Let me stop. What is my  
20 evidence that you're putting in the record that's newly  
21 discovered?

22 MR. BRIDGES: The evidence is detailed in the  
23 complaint that is in the record. You know, --

24 THE COURT: That's not evidence.

25 MR. BRIDGES: -- honestly, Your Honor, --

1 THE COURT: That is not evidence. Okay? A lawyer-  
2 drafted complaint in another court is not evidence. Okay?

3 MR. BRIDGES: Your Honor, I think, to be technical,  
4 that there is not a record yet, that we have evidence yet to  
5 be admitted on our exhibit list. I believe in this  
6 circumstance -- I understand that, in general, allegations in  
7 a pleading are not evidence. In this instance, when we're  
8 talking about whether or not new facts led to the filing of a  
9 lawsuit, I do believe that the allegations in the lawsuit are  
10 evidence of those new facts.

11 THE COURT: All right. Go on.

12 MR. BRIDGES: Under (b) (4), we believe the order is,  
13 in part, void. It is void because of the jurisdictional and  
14 other defects noted in our argument.

15 And also, under (b) (6) (garbled) ground for relief that  
16 we're appealing to the equitable powers of this Court to  
17 correct errors and manifest injustice towards not just the  
18 litigants here but to correct the order of the Court to make  
19 it comply with -- with the law, with the statutes promulgated  
20 by Congress and to respect the jurisdiction of the District  
21 Court.

22 THE COURT: All right. Do you agree with Mr.  
23 Pomerantz that the case law standard for Rule 60(b) (4) is  
24 exceptional circumstances? It's only applied so that a  
25 judgment is voided in exceptional circumstances. Do you

1 disagree with that case authority?

2 MR. BRIDGES: I would -- I would agree, in part, that  
3 unusual circumstances is not the ordinary case. I'm not  
4 entirely sure what you mean by exceptional, but I think we're  
5 on the same page.

6 THE COURT: Okay. It's not what I mean. That's just  
7 the case law standard. And I'm asking, do you agree with Mr.  
8 Pomerantz that that is the standard set forth in case law when  
9 applying 60(b)(4)? There have to be some sort of exceptional  
10 circumstances where there's just basically no chance the Court  
11 had authority to do what it did.

12 MR. BRIDGES: Out of the ordinary would be the phrase  
13 I would use, Your Honor.

14 THE COURT: Okay. So I guess then I'll go from  
15 there. Is it your argument that gatekeeping provisions in the  
16 bankruptcy world are out of the ordinary?

17 MR. BRIDGES: The exculpation of Mr. Seery for  
18 liability falling short of gross negligence or intentional  
19 wrongdoing in connection with his continuing to conduct the  
20 business of the Debtor as an investment advisor subject to the  
21 Advisers Act, yes, I would say that is out of the ordinary,  
22 that it is extraordinary, that it is --

23 THE COURT: Okay. What is your authority or evidence  
24 on that? Because this Court approves exculpation provisions  
25 regularly in connection with employment orders, and pretty

1 much every judge I know does. In fact, I'm wondering why this  
2 isn't just a term of compensation. You know, he's going to do  
3 x, y, z in the case. His compensation is going to be a, b, c,  
4 d, e. And by the way, we're going to set a standard of  
5 liability for his performance as CEO or investment banker,  
6 financial advisor, whatever, so that no one can sue him  
7 regarding his performance of his job duties unless it rises to  
8 the level of gross negligence, willful misconduct.

9 It's a term of employment that, from my vantage point,  
10 seems to be employed all the time. So it would be anything  
11 but exceptional circumstances. Do you have authority or  
12 evidence --

13 MR. BRIDGES: Your Honor, frankly, --

14 THE COURT: -- to the contrary?

15 MR. BRIDGES: Your Honor, frankly, I'm astonished at  
16 your view of that situation, that it would merely be a term of  
17 his employment, that vitiates the entire fiduciary duty  
18 standard created by the Advisers Act that tells him, with  
19 hundreds of millions of dollars of assets under management for  
20 people he's advising as a registered investment advisor,  
21 people he's advising who believe that he has a fiduciary duty  
22 to them and that it's enforceable, that the SEC, who monitors,  
23 believes he has an enforceable fiduciary duty to those people,  
24 and that he's testified that he has fiduciary duties to those  
25 people, and that Your Honor is saying no, just as a regular

1 term of employment we have undone the Advisers Act's  
2 imposition of an unwaivable fiduciary duty.

3 Your Honor, the order is void to the extent that it  
4 attempts to do so.

5 This is not an ordinary employment agreement, Your Honor.  
6 This is an attempt to exculpate someone from the key thing  
7 that our entire investment system depends upon, regulation by  
8 the SEC and the requirement in investment advisors to act as  
9 fiduciaries when they manage the money of another.

10 It would be the equivalent of telling lawyers who are  
11 appointed in a bankruptcy proceeding that they don't have any  
12 duties to their client, or at least not fiduciary duties.  
13 That the lawyers merely owe a duty not to be grossly negligent  
14 to their clients. That's not an ordinary term of employment,  
15 Your Honor.

16 THE COURT: All right. So I guess we're back to my  
17 question, was this brought within a reasonable time under Rule  
18 60(c)?

19 MR. BRIDGES: It was brought very quickly after the  
20 new evidence was discovered at the end of March, Your Honor,  
21 yes.

22 THE COURT: Okay. Well, I guess I'll just ask you  
23 one more question before you continue on with your rebuttal  
24 argument. I mean, again, I want your best argument of why  
25 *Villegas* doesn't absolutely permit the gatekeeping provisions

1 that you're challenging. And many cases were cited by Mr.  
2 Pomerantz in his brief where courts have extended the *Barton*  
3 doctrine to persons other than trustees. And so what is your  
4 best rebuttal to that?

5 MR. BRIDGES: Your Honor, we've already given it.  
6 I'm afraid --

7 THE COURT: Okay. If you don't want to say more, --

8 MR. BRIDGES: -- what I have is not --

9 THE COURT: -- I'm not going to make you say more.

10 MR. BRIDGES: I --

11 THE COURT: I'm just telling you what's on my brain.

12 MR. BRIDGES: I do. I want to -- I am apologizing in  
13 advance for repeating, but yes, *Villegas, Villegas*, however  
14 that case is pronounced, says that *Stern* is not an exception  
15 to the *Barton* doctrine.

16 THE COURT: Uh-huh.

17 MR. BRIDGES: 959(a) is an exception to the *Barton*  
18 doctrine. You are not operating under the *Barton* doctrine  
19 here. Even counsel's brief, the Debtor's brief, doesn't say  
20 *Barton* applies. It says it's consistent with *Barton*.

21 Your Honor, in our previous hearing, you directed me to  
22 the second sentence of 959(a) because you believe it's what  
23 empowers you to do the gatekeeping. It limits the gatekeeping  
24 that you can do by protecting jury rights, the right to trial,  
25 says you cannot discharge, undo, deprive a litigant of their



1 right to a trial, a jury trial.

2 THE COURT: Well, you mentioned it again, jury trial  
3 rights. Do you have any argument --

4 MR. BRIDGES: Yes, Your Honor.

5 THE COURT: -- of why that hasn't flown out the  
6 window?

7 MR. BRIDGES: Yes, Your Honor. I am told that  
8 Section 14(f) that counsel for the Debtor referred to is not a  
9 waiver of jury rights at all. It is an arbitration agreement.  
10 Your Honor is probably familiar how arbitration agreements  
11 work, is that they need not be elected. They need not be  
12 invoked by the parties. When they are, they create a  
13 situation where arbitration may be required. But a waiver of  
14 a jury right outside of arbitration is not part of this  
15 arbitration clause, or of any. The issue is not briefed or in  
16 evidence before the Court. We're relying on representations  
17 of counsel as to what that provision contains. That Mr. Seery  
18 wasn't even a party to that agreement, the advisory agreement,  
19 with the Charitable DAF. The arbitration agreement is subject  
20 to defenses that are not at issue here before the Court. That  
21 Movants' rights, their contractual rights to invoke the  
22 arbitration clause, also appear to be terminated by the  
23 orders' assertion of sole jurisdiction in this matter.

24 Your Honor, yes, our jury rights survive Section 14(f) in  
25 the advisory agreement with the DAF for all of those potential

1 reasons.

2 On top of that, it doesn't go to all of our causes of  
3 action. It goes to the contract cause of action. And to the  
4 extent they can argue that the other claims are subject to  
5 arbitration, that also is a defense and -- defensible and  
6 complex issue requiring the application of the Federal  
7 Arbitration Act, requiring consideration of the Federal  
8 Arbitration Act, which this Court doesn't have jurisdiction to  
9 do under 157(d).

10 THE COURT: What? Repeat that.

11 MR. BRIDGES: Yes. This Court does not have  
12 jurisdiction to determine whether or not arbitration --  
13 arbitration is enforceable due to the mandatory withdrawal of  
14 the reference provisions of 157(d).

15 THE COURT: That's just not consistent with Fifth  
16 Circuit authority. *National Gypsum*. What are some of these  
17 other arbitration cases? I've written an article on it. I  
18 can't remember them. That's just not right. Bankruptcy  
19 courts look at arbitration clauses all the time. Motions to  
20 compel arbitration.

21 MR. BRIDGES: Your Honor, under 157(d), in the  
22 circumstances of this case, if the Court is going to take into  
23 consideration an arbitration clause under the Federal  
24 Arbitration Act, when that clause is not in evidence and is  
25 not before the Court, then Movants respectfully move to

1 withdraw the reference of your consideration of that issue and  
2 of any proceeding and ask that you would issue only a report  
3 and recommendation rather than an order on that issue.

4 THE COURT: Okay. I regret that we even got off on  
5 this trail. I'm sorry. So just proceed with your rebuttal  
6 argument as you had envisioned it, Mr. Bridges.

7 MR. BRIDGES: Thank you, Your Honor.

8 Debtor's counsel says there's no private right of action  
9 under the Advisers Act. That is both inaccurate and  
10 misleading. The Advisory Act creates, imposes fiduciary  
11 duties that state law provides the cause of action for. It is  
12 a state law breach of fiduciary duty claim regarding --  
13 regarding fiduciary duties imposed as a matter of law by the  
14 Investment Advisers Act that is Count One in the District  
15 Court action.

16 Furthermore, that Act does create a private right of  
17 action for rescission. That would be rescission of the  
18 advisory agreement with the Charitable DAF, not rescission of  
19 the HarbourVest settlement.

20 Second, Your Honor, the notion that this Court has related  
21 to jurisdiction is irrelevant and beside the point. I would  
22 like to note for the record that the District Court civil  
23 cover sheet that omitted to state that this was a related  
24 action has been corrected, has been amended, and that that has  
25 taken place.

1 Counsel for the Debtor also appears to agree with us that  
2 the order ought to be modified for having asserted exclusive  
3 jurisdiction over colorable claims to the extent it's not  
4 legally permissible to do. And in trying to invoke the  
5 discussions between us as to how the orders might be fixed,  
6 what counsel does is tries to cabin the legally-permissible  
7 caveat to just the second half of the paragraph at issue. It  
8 is both -- both portions, the gatekeeping and the subsequent  
9 hearing of the claims, that should be limited to the extent it  
10 would be impermissible legally for this Court to make those  
11 decisions.

12 On top of that, Your Honor, merely stating "to the extent  
13 legally permissible" would result in a considerable amount of  
14 ambiguity in the order that would lead it, I fear, to be  
15 unenforceable as a matter of law.

16 Next, Your Honor, when Debtor's counsel talks about the  
17 authority in this case, it feels like we're ships passing in  
18 the night. He says that we're wrong in asserting that no case  
19 we can find involves both the *Barton* doctrine and the  
20 application of the business judgment rule where the Court is  
21 asked to defer, and he mentions cases that apply the *Barton*  
22 doctrine to an approval rather than an appointment. The Court  
23 is asked to --

24 (Garbled audio.)

25 THE COURT: I lost you for a moment. Could you

1 repeat the last 30 seconds?

2 MR. BRIDGES: Thank you, Your Honor. Yes. He points  
3 -- opposing counsel points us to case law where the *Barton*  
4 doctrine has been applied despite the Bankruptcy Court having  
5 merely approved rather than appointed the trustee or the, I'm  
6 sorry, the professional. But in doing so, he doesn't  
7 reference any case that has done so in the context of business  
8 judgment rule deference. It's like we're ships passing in the  
9 night.

10 What we're saying isn't that a mere approval can never  
11 rise to the level of the *Barton* doctrine. What we're saying  
12 is that, in combination with the business judgment rule  
13 deference, the two cannot go together. There's no authority  
14 for saying that they do.

15 We -- I further feel like we're ships passing in the night  
16 when he talks about *Shoaf*. Counsel says that in *Shoaf* there  
17 was a confirmed final plan and it specifically identified the  
18 released guaranty. And yeah, that distinguishes it from this  
19 case, just as it distinguished -- just as the *Applewood Chair*  
20 case distinguished it when there's not that specific  
21 identification. And here, we don't even have a final plan  
22 confirmation at the time these orders are being issued.  
23 Without that express -- express notion of what the claims are  
24 being discharged, *Shoaf* doesn't apply.

25 There, there was a guaranty to a party on a specific

1 indebtedness that was listed, identified with specificity, and  
2 disappeared as a result of the judgment, as a result of the  
3 judgment in the underlying case. Here, we're talking about  
4 any potential claim that might arise in the future. As of the  
5 July order's issuance, it didn't apply on its -- either it  
6 didn't apply to future claims that had not yet accrued or else  
7 in violation of *Applewood Chair*, it was releasing claims  
8 without identifying them.

9 Who does Seery owe a fiduciary duty to? Is it, as  
10 Debtor's counsel says, only to the funds and not to the  
11 investors, or does he also owe those duties to the investors  
12 as well? Your Honor, that is going to be a hotly-contested  
13 issue in this litigation, and it involves -- it requires  
14 consideration of the Advisers Act and the multitude of  
15 accompanying regulations. To just state that his fiduciary  
16 duties are limited in a way that couldn't affect anyone that  
17 is -- whose claims are precluded by the July order is both  
18 wrong on the law and is invoking something that will be a  
19 hotly-contested issue that falls under 157(d), where, again,  
20 this Court doesn't have the jurisdiction to decide that, other  
21 than in a report and recommendation.

22 The order is legally infirm because it's issued without  
23 jurisdiction for doing that as well.

24 Finally, Your Honor, I think (garbled) wrong direction  
25 with a statement that suggests that Mr. Seery is an agent of

1 the independent directors under the January order. He is, in  
2 fact, not an independent agent -- not an agent of any of the  
3 independent directors, but, at most, of the company that is  
4 controlled by the board, not -- not of individual directors  
5 who could confer on him -- who could confer on him any  
6 immunity that they have obtained from the January order just  
7 by having appointed him.

8 The proposed order from the other side failed to address  
9 either the ambiguity in the order or its attempt to exculpate  
10 Mr. Seery from the liability, including liability for which  
11 there is a jury trial right, and it is not a fix to the  
12 problem for that reason.

13 In order to make the order enforceable and to fix its  
14 infirmities, the Court would have to do significantly more.  
15 It would have to both apply the caveat from the final  
16 confirmation plan order, rope that caveat to the first part of  
17 the relevant paragraph, as well as the second part, and it  
18 would have to provide directive clarity to be enforceable  
19 rather than too vague.

20 Your Honor, I think that's all I have.

21 THE COURT: Okay. Just FYI, my law clerk pulled the  
22 *Smyth* case from 21 years ago from the Fifth Circuit. And  
23 while it more prominently deals with the issue of whether  
24 trustees -- in this case, it was a Chapter 11 trustee -- could  
25 be subjected to personal liability for damages to the



1 bankruptcy estate --

2 (Echoing.)

3 THE COURT: Someone, put your phone on mute. I don't  
4 know who that is.

5 It dealt with, you know, the standard of liability, that  
6 the trustee could not be sued for matters not to the level of  
7 gross negligence.

8 But it does say, in the very last paragraph, to my shock  
9 and amazement, that -- it's just one sentence in a 10-page  
10 opinion -- orders appointing counsel -- and it was talking  
11 about the trustee's lawyer he hired to handle appeals to the  
12 Fifth Circuit -- orders appointing counsel under the  
13 Bankruptcy Code are interlocutory and are not generally  
14 considered final and appealable. And it cites one case from  
15 1993, the Middle District of Florida. Live and learn. There  
16 is one sentence in that opinion that says that. But I don't  
17 know that it's hugely impactful here, but I did not know about  
18 that opinion and I'm rather surprised.

19 All right. You were going to walk me through evidence,  
20 you said?

21 MR. BRIDGES: Well, do I -- Your Honor, do you want  
22 to do that first before I submit --

23 THE COURT: Yes, please.

24 MR. BRIDGES: -- my rebuttal argument?

25 THE COURT: Please.

1 MR. BRIDGES: Okay.

2 THE COURT: Uh-huh.

3 MR. BRIDGES: Your Honor, we would submit and offer  
4 Exhibits 1 through 44, with the exception of those that have  
5 been withdrawn, that are 2, 13 --

6 THE COURT: Okay. Slow down. Slow down. I need to  
7 get to the docket entry number we're talking about. Are we  
8 talking -- are your -- the Debtor's exhibits are at 2412. But  
9 Nate, I misplaced my notes. Where are Charitable DAF and  
10 Holdco's?

11 THE CLERK: I have 2411.

12 THE COURT: 2411? Is that it?

13 MR. BRIDGES: 2420, Your Honor.

14 THE COURT: 2420? Okay. Give me a minute. (Pause.)  
15 2420?

16 MR. BRIDGES: Yes, Your Honor.

17 THE COURT: Okay, I'm there. And it's which  
18 exhibits?

19 MR. BRIDGES: It's Exhibits 1 through 44, Your  
20 Honor, with four exceptions. We have agreed to withdraw  
21 Exhibit 2, 13, 14, and 29.

22 THE COURT: All right.

23 MR. BRIDGES: Also, Your Honor, we'd like to submit  
24 Debtor's Exhibit 1, which is under Exhibit 49 on our list,  
25 would be anything offered by the other side. But we'd like

1 to make sure that Debtor's Exhibit 1 gets in the record as  
2 well.

3 THE COURT: Let me back up. When I pull up the  
4 docket entry you just told me, I have Exhibits 44, 45, and 46  
5 only. Am I misreading this?

6 MR. BRIDGES: I have a chart showing Exhibits 1  
7 through 49 titled Docket 2420 filed 6/7/21.

8 THE COURT: Okay. The docket entry number you told  
9 me, 2420, it only has three exhibits: 44, 45, and 46. So,  
10 first off, I understand -- are you offering 45 and 46 or not?

11 MR. BRIDGES: No, Your Honor.

12 THE COURT: Okay. So you said you were offering 1  
13 through 44 minus certain ones. 44 is here.

14 MR. BRIDGES: Yes.

15 THE COURT: But I've got to go back to a different  
16 docket number.

17 THE CLERK: It's actually 2411.

18 THE COURT: It's at 2411. That has all the others?

19 THE CLERK: Yes.

20 THE COURT: Okay.

21 So, Mr. Pomerantz, do you have any objection to Exhibits  
22 1 through 44, which he's excepted out 2, 13, 14, and 29, and  
23 then he's added Debtor's Exhibit 1? Any objection?

24 MR. POMERANTZ: I don't believe so. I just would  
25 confirm with John Morris, who has been focused on the

1 exhibits, just to confirm.

2 THE COURT: Mr. Morris?

3 MR. MORRIS: No objection, Your Honor. It's fine.

4 THE COURT: Okay. They're admitted.

5 (Movants' Exhibits 1, 3 through 12, 15 through 28, and 30  
6 through 44 are received into evidence. Debtor's Exhibit 1 is  
7 received into evidence.)

8 THE COURT: So, any --

9 MR. BRIDGES: Thank you, Your Honor.

10 THE COURT: Anything you wanted to call to my  
11 attention about these?

12 MR. BRIDGES: Your Honor, the things that we  
13 mentioned in the argument, for sure, but especially that the  
14 word "trustee" is not used in the January hearing's  
15 transcript, nor is it under discussion in that transcript  
16 that it would be a trustee-like role being played by the  
17 Strand directors, as well as the transcript of the July  
18 hearing on the order at issue here, Your Honor, where you are  
19 asked to defer both in that transcript and in the motion, the  
20 motion that was at issue in that hearing, you are asked to  
21 defer to the business judgment of the company.

22 And finally, Your Honor, I'd ask you to look at the  
23 allegations in the District Court complaint.

24 THE COURT: All right.

25 Mr. Pomerantz or Morris, let's see what exhibits you're

1 wanting the Court to consider. Your exhibits, it looks like,  
2 are at Docket Entry 2412.

3 MR. MORRIS: As subsequently amended at 2423.

4 THE COURT: Oh. All right. So which ones are you  
5 offering?

6 MR. MORRIS: We're offering all of the exhibits on  
7 2423, which is 1 through 17.

8 (Echoing.)

9 THE COURT: Whoops. We got some distortion there.  
10 Say again?

11 MR. MORRIS: Yeah. All of the exhibits that are on  
12 2423, which are Exhibits 1 through 17. But I want to make  
13 sure that, as I did earlier, that that has the exhibits that  
14 we're relying on. Does that --

15 (Pause.)

16 THE COURT: Okay. Let me make sure I know what's  
17 going on here. You're double-checking your exhibits, Mr.  
18 Morris?

19 MR. MORRIS: Yes, Your Honor.

20 THE COURT: Okay.

21 (Pause.)

22 MR. MORRIS: Your Honor, we start with Docket No.  
23 2419, --

24 THE COURT: Okay.

25 MR. MORRIS: -- which was the amended exhibit list.

1 And that actually had Exhibits 1 through 17. And then that  
2 was amended at Docket 2423. So, the exhibits on both of  
3 those lists.

4 THE COURT: Well, they're one and the same, it looks  
5 like, right?

6 MR. MORRIS: Yes.

7 THE COURT: Okay. So you're offering those?

8 MR. MORRIS: I think -- yeah.

9 THE COURT: Any objection?

10 MR. BRIDGES: No objection.

11 THE COURT: All right. They're admitted.

12 (Debtor's Exhibits 1 through 17 are received into  
13 evidence.)

14 MR. POMERANTZ: Your Honor, if I may take a few  
15 moments to respond to Mr. Bridges' reply?

16 THE COURT: All right. Is he still within his hour  
17 and a half?

18 THE CLERK: At an hour and one minute.

19 THE COURT: Okay. All right. You have a little  
20 time left, so go ahead.

21 MR. POMERANTZ: Thank you, Your Honor.

22 So look, I -- it sort of was really not fair to us. Mr.  
23 Bridges was really making things up on the fly. He was  
24 changing the theories of his case and responding to Your  
25 Honor. But I'm going to do my best to respond to the

1 arguments made, many of which I sort of anticipated.

2 I'll first start with the issue that Your Honor raised,  
3 which was whether this is under Rule 60 or not. Mr. Bridges  
4 identified a couple of cases, said that the order was  
5 interlocutory, said that somehow the orders have anything to  
6 do with a plan confirmation order. They do not. Your Honor  
7 didn't hear that argument at the plan confirmation. The  
8 January 9th and July 16th orders are old and cold. There's  
9 an exculpation provision in the plan. There's a gatekeeper  
10 in the plan. The provisions do not overlap entirely. The  
11 gatekeeper applies prospectively. The exculpation provision  
12 includes additional parties.

13 So the arguments that basically the plan had anything to  
14 do -- and the fact that the plan is not a final order -- has  
15 anything to do with the January 9th and July 16th orders is  
16 just wrong. It's just wrong.

17 More fundamentally, Your Honor, as Your Honor pointed  
18 out, the *Smyth* case is a professional employment order. And  
19 ironically, if you abide by the *Smyth* case, that order is  
20 never appealable because it's interlocutory.

21 But more fundamentally, Your Honor, that's dealing with  
22 327 professionals. And again, there's not much analysis in  
23 the *Smyth* case, but we're not dealing with a 327  
24 professional. We're dealing with orders that were approved  
25 under 363.



1           So the premise of the argument that Rule 60(b) -- 60  
2 doesn't apply and they have other arguments just doesn't make  
3 any sense.

4           Okay. So now that gets us to Rule 60. And Your Honor,  
5 Your Honor hit the nail on the head. They haven't presented  
6 any evidence. Allegations in a complaint aren't evidence.  
7 They can't stand up there and say surprise evidence. They  
8 had the opportunity -- and this hearing's been continued a  
9 few weeks -- they had the opportunity to bring it up, and  
10 it's -- they had the opportunity to claim that there was  
11 surprise, but they just didn't. Okay?

12           So to go on to the Rule 60 arguments. Surprise.  
13 Surprise and reasonable delay are really -- go hand in hand  
14 with Mr. Bridges' argument. He says, well, we didn't find  
15 out that -- months after the order was entered that he  
16 violated a duty to us, so we are surprised by that, and it's  
17 a reasonable time. Well, Your Honor, the order provided for  
18 an exculpation. CLO Holdco and DAF knew that it applied to  
19 an exculpation. They were bound. They knew based upon that  
20 order that they would not be able to bring claims for normal  
21 negligence. There is no surprise.

22           If you take Mr. Bridges' argument to its conclusion, he  
23 could wait until the end of the statute of limitations after  
24 an order and have come in four years from now and say, Your  
25 Honor, we just found out facts so we should go back four

1 years before. That, Your Honor, that's not how the surprise  
2 works. That's not how the reasonable time works.

3 Mr. Bridges did not contest that they're bound by res  
4 judicata. He did not contest that the exculpation itself was  
5 clear and unambiguous. Of course he argued Your Honor  
6 couldn't enter an order saying there was exculpation, again,  
7 with no authority. And he seemed surprised, as I suspect he  
8 should, since he's not a bankruptcy lawyer, that retention  
9 orders, whether it's investment bankers, financial advisors,  
10 include exculpations all the time. So there's no grounds  
11 under surprise.

12 There's no grounds -- the motions are late under 60(c).

13 And they're not void. I went through a painstaking  
14 analysis, Your Honor, and I described in detail what the  
15 *Espinosa* case held, and the exceptional circumstances which  
16 Mr. Bridges tried to get away from as much as he could.  
17 Maybe he can try to get away from language in a district  
18 Court opinion, in a Bankruptcy Court opinion, in a Circuit  
19 Court opinion. You can't get away from language in a Supreme  
20 Court opinion. The Supreme Court opinion said exceptional  
21 circumstances, where there was arguably no basis for  
22 jurisdiction for what the Court did. They have not even come  
23 close to convincing Your Honor that there was absolutely no  
24 basis.

25 Now, they disagree. We granted, we think it's a good-

1 faith disagreement, but they haven't come close to  
2 establishing the *Espinosa* standard, so their motion under 60  
3 does not -- it fails.

4 And I don't think -- look, these are good lawyers. Mr.  
5 Bridges and Mr. Sbaiti are good lawyers. They didn't just  
6 inadvertently not mention Rule 60. They never mentioned it  
7 because they knew they had no claim under Rule 60.

8 Your Honor, Mr. Bridges has made comments about the  
9 fiduciary duty of Mr. Seery, about what the Investor's Act  
10 provides. He's just wrong on the law. Now, Your Honor  
11 doesn't have to decide that. Whichever court adjudicates the  
12 DAF lawsuit will have to decide it. But there is no private  
13 cause of action for damages. There are no fiduciary duties to  
14 the investors.

15 And what Mr. Bridges doesn't even mention, in that the  
16 investment agreement that's so prominent in his complaint,  
17 they waived claims other than willful misconduct and gross  
18 negligence against Highland. They waived those claims. So  
19 for Mr. Bridges to come in here and argue that there's some  
20 surprise, when he hasn't even bothered to look at the document  
21 that's underlying the contractual relationship between the DAF  
22 and the Debtor, is -- you know, I'll just say it's  
23 inadvertence.

24 Your Honor, Mr. Bridges tried to argue that Mr. Seery is  
25 not a beneficiary of the January 9th order. He's not an

1 agent. Well, again, Your Honor, Mr. Bridges wasn't there.  
2 Your Honor and we were. On January 9th, an independent board  
3 was picked, and at the time Mr. Dondero ceased to become the  
4 CEO. So you have three gentlemen coming in -- Mr. Seery, Mr.  
5 Dubel, and Mr. Nelms -- coming in to run Highland, in a very  
6 chaotic time. They had to act through their agents. There  
7 was no expectation that this board was going to actually run  
8 the day-to-day operations of the Debtor. Of course not. They  
9 needed someone to run. And they picked Mr. Seery. And the  
10 argument that well, he's an agent of the company, he's not an  
11 agent of the board, that just doesn't make sense. The  
12 independent board had to act. The directors had to act. And  
13 the directors, how do they deal with that? They acted through  
14 Mr. Seery. So he is most certainly governed by the January  
15 9th order.

16 Your Honor, I want to talk about the jury trial right.  
17 Mr. Bridges said that Paragraph 14 is an arbitration clause  
18 and not a jury trial waiver. Now, again, I will forgive Mr.  
19 Bridges because I assume he didn't read the provision, okay,  
20 and he -- somebody told him that, and that person just got it  
21 wrong. But what I would like to do is read for Your Honor  
22 Paragraph 14(f). It doesn't have to do with arbitration.  
23 It's a waiver of jury trial. 14(f), Jurisdiction Venue,  
24 Waiver of Jury Trial. The parties hereby agree that any  
25 action, claim, litigation, or proceeding of any kind

1 whatsoever against any other party in any way arising from or  
2 relating to this agreement and all contemplated transactions,  
3 including claims sounding in contract, equity, tort, fraud,  
4 statute defined as a dispute shall be submitted exclusively to  
5 the U.S. District Court for the Northern District of Texas, or  
6 if such court does not have subject matter jurisdiction, the  
7 courts of the State of Texas, City of Dallas County, and any  
8 appellate court thereof, defined as the enforcement court.

9 Each party ethically and unconditionally submits to the  
10 exclusive personal and subject matter jurisdiction of the  
11 enforcement court for any dispute and agrees to bring any  
12 dispute only in the enforcement court. Each party further  
13 agrees it shall not commence any dispute in any forum,  
14 including administrative, arbitration, or litigation, other  
15 than the enforcement court. Each party agrees that a final  
16 judgment in any such action, litigation, or proceeding is  
17 conclusive and may be enforced through other jurisdictions by  
18 suit on the judgment or in any manner provided by law.

19 And then the kick, Your Honor, all caps, as jury trial  
20 waiver always are: Each party irrevocably and unconditionally  
21 waives to the fullest extent permitted by law any right it may  
22 have to a trial by jury in any legal action, proceeding, cause  
23 of action, or counterclaim arising out of or relating to this  
24 agreement, including any exhibits, schedules, and appendices  
25 attached to this agreement or the transactions contemplated

1 hereby. Each party certifies and acknowledges that no  
2 representative of the owner of the other party has represented  
3 expressly or otherwise that the other party won't seek to  
4 enforce the foregoing waiver in the event of a legal action.  
5 It has considered the implications of this waiver, it makes  
6 this waiver knowingly and voluntarily, and it has been induced  
7 to enter into this agreement by, among other things, the  
8 mutual waivers and certifications in this section.

9 Your Honor, I will forgive Mr. Bridges. I assume he just  
10 did not read that. But to represent to the Court that that  
11 language does not contain a jury trial waiver is -- is just  
12 wrong.

13 THE COURT: All right. I'm going to stop right  
14 there. And you were reading from the Second Amended and  
15 Restated Shared Services Agreement between Highland --

16 MR. POMERANTZ: Not shared services. I'm reading  
17 from the Second Amended and Restated Investment Advisory  
18 Agreement --

19 THE COURT: Investment --

20 MR. POMERANTZ: -- between the Charitable DAF, the  
21 Charitable DAF GP, and Highland Capital Management. The  
22 agreement whereby the Debtor was the investment advisor to the  
23 Charitable DAF Fund and the Charitable DAF GP.

24 THE COURT: All right. Well, Mr. Bridges, I'm going  
25 to bounce quickly back to you. This is your chance to defend

1 your honor.

2 MR. BRIDGES: Yeah, we're -- we're looking at a  
3 different agreement, where -- where literally the words that  
4 were read to you are not in the agreement in front of us and  
5 it is news to me. So, Your Honor, this is a problem --

6 THE COURT: What is the agreement you're looking at?

7 MR. BRIDGES: It is the Amended -- I assume that  
8 means First Amended -- Restated Advisory Agreement.

9 MR. POMERANTZ: Your Honor, we are happy to file this  
10 agreement with the Court so the Court has the benefit of it in  
11 connection with Your Honor's ruling.

12 THE COURT: Okay. I would like you to do that. Uh-  
13 huh.

14 MR. BRIDGES: I'd like -- I'd like to request -- I'll  
15 withdraw that.

16 THE COURT: Okay. Go on, Mr. Pomerantz.

17 MR. POMERANTZ: Mr. Bridges, if you could put us on  
18 mute. If you could put us on mute, Mr. Bridges, so I don't  
19 hear your feedback. Thank you.

20 Mr. Bridges also complains about the language "to the  
21 extent permissible by law." As Your Honor knows and as has  
22 been my practice over 30 years, that language is probably in  
23 every plan where there's a retention of jurisdiction: to the  
24 extent permissible by law. And Mr. Bridges says that this  
25 will create ambiguity in the order that couldn't be enforced.



1 There's no basis for that. Our including the language "to the  
2 extent permissible by law" in the orders, as we are prepared  
3 to do, is consistent with the plan confirmation order where we  
4 addressed that issue. And we addressed that issue because we  
5 didn't want to put Your Honor in a position where thereby Your  
6 Honor may have an action before Your Honor that passes the  
7 colorability gate that Your Honor may not be able to assert  
8 jurisdiction. And since jurisdiction can't be waived in that  
9 regard, we will agree to amend that.

10 There's nothing ambiguous about that, and there's no  
11 reason, though, that clause has to modify the Court's ability  
12 to act as a gatekeeper, because, as we've argued *ad nauseam*,  
13 gatekeeper provisions where the Court has that ability is not  
14 only part of general bankruptcy jurisprudence but also part of  
15 the Bankruptcy Code.

16 Counsel says that *Barton* doesn't apply because the  
17 business judgment of Your Honor was used in retaining Mr.  
18 Seery as opposed to in some other capacity. There's no basis  
19 for that, Your Honor. A court-appointed -- a court-approved  
20 CEO, CRO, professional, they are all entitled to protection  
21 under the *Barton* act. And the argument -- and again, this is  
22 separate and apart from whether he's entitled to protection  
23 under the January 9th order. But the argument that because it  
24 was the business judgment -- again, business judgment in doing  
25 something that Your Honor expressly contemplated under the

1 January 9th corporate governance order -- there's just no law  
2 to support that. And I guess he's trying to get around the  
3 plethora of cases that deal with the situation where *Barton*  
4 has been extended.

5 Your Honor, Mr. Bridges, again, in arguing that we're  
6 ships passing in the night on *Shoaf* and *Applewood* and  
7 *Espinosa*, no, we're not ships passing in the night. We have a  
8 difference in agreement on what these cases stand for. These  
9 cases stand for the proposition that a clear and unambiguous  
10 provision, plain and simple, if it's clear and unambiguous, it  
11 will be given res judicata effect. The release in *Shoaf*,  
12 clear and unambiguous. The release in *Applewood*, not. The  
13 issue here is the exculpation language. That was clear and  
14 unambiguous. It applied prospectively. The argument makes no  
15 sense that we didn't identify -- we didn't identify claims  
16 that might arise in the future, so therefore an exculpation  
17 clause doesn't apply? That doesn't make any sense.

18 Your Honor clearly exculpated parties. Mr. Dondero knew  
19 it. CLO Holdco knew it. The DAF knew it. So the issue Your  
20 Honor has to decide is whether that exculpation was a clear  
21 and unambiguous provision such that it should be entitled to  
22 res judicata effect. And we submit that the answer is  
23 unequivocally yes.

24 That's all I have, Your Honor.

25 THE COURT: All right. Well, --

1 MR. MORRIS: Your Honor? I apologize.

2 THE COURT: Okay.

3 MR. MORRIS: This is John Morris.

4 THE COURT: Yes?

5 MR. MORRIS: I just want to, with respect to the  
6 exhibits, I know there was no objection, but I had cited to  
7 Docket Nos. 2419 and 2423. The original exhibit list is at  
8 Docket No. 2412. So it's the three of those lists together.  
9 2412, as amended by 2419, as amended by 2423. Thank you very  
10 much.

11 THE COURT: All right. Thank you. All right.

12 MR. BRIDGES: Your Honor, I still have no objection  
13 to that, but may I have the last word on my motion?

14 THE COURT: Is there time left?

15 THE CLERK: Yes.

16 THE COURT: Okay. Go ahead.

17 MR. BRIDGES: I just need a minute, Your Honor. They  
18 agreed to change the order. They proposed it to us. They  
19 proposed it in a proposed order to you. They can't also say  
20 that it cannot be changed.

21 Secondly, Your Honor, in *Milic v. McCarthy*, 469 F.Supp.3d  
22 580, the Eastern District of Virginia points out that the  
23 Fourth Circuit treats appointment of estate professionals as  
24 interlocutory orders as well.

25 That's all. Thank you, Your Honor.

1 THE COURT: All right. Here's what we're going to  
2 do. We've been going a very long time. I'm going to take a  
3 break to look through these exhibits, see if there's anything  
4 in there that I haven't looked at before and that might affect  
5 the decision here. So we will come back at 3:00 o'clock  
6 Central Time -- it's 2:22 right now -- and I will give you my  
7 bench ruling on this. All right.

8 So, Mike, they can all stay on the line, right?

9 Okay. You can stay on, and we'll be back at 3:00 o'clock.

10 THE CLERK: All rise.

11 (A recess ensued from 2:22 p.m. to 3:04 p.m.)

12 THE CLERK: All rise.

13 THE COURT: All right. Please be seated. All right.  
14 Everyone presented and accounted for. We're going back on the  
15 record.

16 MR. POMERANTZ: Your Honor, before you start, this is  
17 Jeff Pomerantz. We had sent to your clerk, and hopefully it  
18 got to you, a copy of the Second Amended and Restated  
19 Investment Advisory Agreement. We also copied Mr. Sbaiti with  
20 it as well. And we would also like to move that into  
21 evidence, just so that it's part of the Court's record.

22 THE COURT: All right.

23 MR. BRIDGES: We would object to that, Your Honor.  
24 We haven't had an opportunity to even verify its authenticity  
25 yet.

1 THE COURT: All right. Well, I'll tell you what.  
2 I'm going to address this in my ruling. So it's not going to  
3 be part of the record for this decision, and yet -- well, I'll  
4 get to it.

5 All right. So we're back on the record in Case Number 19-  
6 34054, Highland Capital. The Court has deliberated, after  
7 hearing a lot of argument and allowing in a lot of documentary  
8 evidence, and the Court concludes that the motion of CLO  
9 Holdco, Ltd. and The Charitable DAF to modify the retention  
10 order of James Seery, which was entered almost a year ago, on  
11 July 16th, 2020, should be denied.

12 This is the Court's oral bench ruling, but the Court  
13 reserves discretion to supplement or amend in a more fulsome  
14 written order what I'm going to announce right now, pursuant  
15 to Rule 7052.

16 First, what is the Movants' authority to request the  
17 modification of a bankruptcy court order that has been in  
18 place for so many months, which was issued after reasonable  
19 notice to the Movants, and after a hearing, which was not  
20 objected to by the Movants, or appealed, when the Movants were  
21 represented by sophisticated counsel, I might add, and which  
22 order was relied upon by parties in this case, most notably  
23 Mr. Seery and the Debtor, and in fact was entered after  
24 significant negotiations involving a sophisticated court-  
25 appointed Unsecured Creditors' Committee with sophisticated

1 professionals and sophisticated members, and after negotiation  
2 with an independent board of directors, court-appointed, one  
3 of whose members is a retired bankruptcy judge? What is the  
4 Movants' authority?

5 Movants fumbled a little on that question, in that the  
6 exact authority wasn't set forth in the motion. But Movants'  
7 primary argument is that Movants think the Seery retention  
8 order was an interlocutory order and that the Court simply has  
9 the inherent authority to modify it as an interlocutory order.

10 The Court disagrees with this analysis. I do not think  
11 the Fifth Circuit's *Smyth* case dictates that the Seery  
12 retention order is still interlocutory. The Seery retention  
13 order was an order entered pursuant to Section 363 of the  
14 Bankruptcy Code, not a Section 327 professionals to a debtor-  
15 in-possession, professionals to a trustee employment order  
16 such as the one involved in the *Smyth* case.

17 But even if the Seery retention order is interlocutory --  
18 the Court feels strongly that it's not, but even if it is --  
19 the Court believes it would be an abuse of this Court's  
20 inherent discretion or authority to modify that order almost a  
21 year after the fact and under the circumstances of this case.

22 Now, assuming Rule 60(b) applies to the Movants' request,  
23 the Court determines that the Movants have not made their  
24 motion anywhere close to within a reasonable time, as Rule  
25 60(c) requires, nor do I think the Movants have demonstrated

1 any exceptional circumstances to declare the order or any of  
2 its provisions void. The Movants have put on no evidence that  
3 constitutes surprise or constitutes newly-disputed evidence.  
4 So why are there no exceptional circumstances here such that  
5 the Court might find, you know, a void order or void  
6 provisions of an order?

7 First, this Court concludes that there's no credible  
8 argument that the Court overreached its jurisdiction with the  
9 gatekeeping provisions in the order. Gatekeeping provisions  
10 are not only very common in the bankruptcy world -- in  
11 retention orders and in plan confirmation orders, for example  
12 -- but they are wholly consistent with the *Barton* case, the  
13 U.S. Supreme Court's *Barton's* case, and its progeny that has  
14 become known collectively as the *Barton* doctrine. Gatekeeping  
15 provisions are wholly consistent with 28 U.S.C. Section  
16 959(a)'s complete language.

17 The Fifth Circuit has blessed gatekeeping provisions in  
18 all sorts of contexts. It has blessed them in the situation  
19 of when *Stern* claims are involved in the *Villegas* case. It  
20 even blessed Bankruptcy Courts' gatekeeping functions a long  
21 time ago, in 1988, in a case that I don't think anyone  
22 mentioned in the briefing, but as I've said, my brain  
23 sometimes goes down trails, and I'm thinking of the *Louisiana*  
24 *World Exposition* case in 1988, when the Fifth Circuit blessed  
25 there a procedure where an unsecured creditors' committee can



1 bring causes of action against persons, such as officers and  
2 directors or other third parties, if they first come to the  
3 Bankruptcy Court and show a colorable claim. They have to  
4 come to the Bankruptcy Court, show they have a colorable claim  
5 and they're the ones that should be able to pursue them. Not  
6 exactly on point, but it's just one of many cases that one  
7 could cite that certainly approve gatekeeper functions of  
8 various sorts of Bankruptcy Courts.

9 It doesn't matter which court might ultimately adjudicate  
10 the claims; the Bankruptcy Court can be the gatekeeper.

11 And the Court agrees with the many cases cited from  
12 outside this circuit, such as the case in Alabama, in the  
13 Eleventh Circuit, and there was another circuit-level case, at  
14 least one other, that have held that the *Barton* doctrine  
15 should be extended to other types of case fiduciaries, such as  
16 debtor-in-possession management, among others.

17 Finally, as I pointed out in my confirmation ruling in  
18 this case, gatekeeping provisions are commonplace for all  
19 types of courts, not just Bankruptcy Courts, when vexatious  
20 litigants are involved. I have commented before that we seem  
21 to have vexatious litigation behavior with regard to Mr.  
22 Dondero and his many controlled entities.

23 Now, as far as the Movants' argument that there was not  
24 just improper gatekeeping provisions but actually an improper  
25 discharge in the Seery retention order of negligence claims or

1 other claims that don't rise to the level of gross negligence  
2 or willful misconduct, again, I reiterate there's nothing  
3 exceptional in the bankruptcy world about exculpation  
4 provisions like this. They absolutely are a term of  
5 employment very often. Just like compensation, they're  
6 frequently requested, negotiated, and approved. They are  
7 normal in the corporate governance world, generally. They are  
8 normal in corporate contracts between sophisticated parties.  
9 And most importantly of all, even if this Court overreached  
10 with the exculpation provisions in the Seery retention order,  
11 even if it did, res judicata bars the attack of these  
12 provisions at this late stage, under cases such as *Shoaf*,  
13 *Republic Supply v. Shoaf* from the Fifth Circuit, the *Espinosa*  
14 case from the U.S. Supreme Court, and even *Applewood*, since  
15 the Court finds the language in this order was clear,  
16 specific, and unambiguous with regard to the gatekeeping  
17 provisions and the exculpation provisions.

18 Last, and this is the part where I said I'm going to get  
19 to this agreement that has been submitted, the Second Amended  
20 and Restated Investment Advisor Agreement or whatever the  
21 title is. I am more than a little disturbed that so much of  
22 the theme of the Movants' pleadings and arguments, and I think  
23 even representations to the District Court, have been they  
24 have these sacred jury trial rights, these inviolate jury  
25 trial rights, and an Article I Court like this Court should

1 have no business through a gatekeeping provision impinging on  
2 the possible pursuit of an action where there's a jury trial  
3 right.

4 I was surprised initially when I thought about this. I  
5 thought, wow, I've seen so many agreements over the months. I  
6 can't say every one of them waived the jury trial right, but I  
7 just remembered seeing that a lot, and seeing arbitration  
8 provisions, and so that's why I asked. It just was lingering  
9 in my brain. So I'm going to look at what is submitted. I'm  
10 not relying on that as part of my ruling. As you just heard,  
11 I had a multi-part ruling, and whether there's a jury trial  
12 right or not is irrelevant to how I'm choosing to rule on this  
13 motion. But I do want to see the agreement, and then I want  
14 Movants within 10 days to respond with a post-hearing trial  
15 brief either saying you agree that this is the controlling  
16 document or you don't agree and explain the oversight, okay?  
17 Because it feels like a gross omission here to have such a  
18 strong theme in your argument -- we have a jury trial right,  
19 we have a jury trial right, by God, the gatekeeping  
20 provisions, among other things, impinge on our sacred pursuit  
21 of our jury trial right -- and then maybe it was very  
22 conspicuous in the controlling agreement that you'd waived  
23 that, the Movants had waived that.

24 So, anyway, I'm requiring some post-hearing briefing, if  
25 you will, on whether omissions, misrepresentations were made

1 to the Court.

2           Anyway, so I reserve the right to supplement or amend this  
3 ruling with a more fulsome written order. I am asking Mr.  
4 Pomerantz to upload a form of order that is consistent with  
5 this ruling, and --

6           MR. POMERANTZ: Your Honor, we will do so. I do have  
7 one thing to bring to the Court's attention, unrelated to the  
8 motion, before Your Honor leaves the bench.

9           THE COURT: All right. So just a couple of follow-up  
10 things. Have you -- I'm not clear I heard what you said about  
11 this agreement. Did you email it to my courtroom deputy or  
12 did you file it on the docket?

13           MR. POMERANTZ: We emailed it to your courtroom  
14 deputy. We're happy to file it on the docket. And we also  
15 provided a copy to Mr. Sbaiti.

16           I would note for the Court that it's signed both by The  
17 Charitable DAFs by Grant Scott, just for what it's worth.

18           THE COURT: Okay. All right. Well, I'm trying to  
19 think what I want -- I do want you to file it on the docket,  
20 and I'm trying to think of what you label it. Just call it  
21 Post-Hearing Submission or something and link it to the motion  
22 that we adjudicated here today. And then, again, you've got  
23 10 days, Mr. Bridges, to say whatever you want to say about  
24 that agreement.

25           I guess the last thing I wanted to say is we sure devoted

1 a lot of time to this motion today. We have -- this is a  
2 recurring pattern, I guess you can say. We have a lot of  
3 things that we devote a lot of time to in this case that I get  
4 surprised, but it is what it is. You file a motion. I'm  
5 going to give it all the attention Movants and Respondents  
6 think it warrants. I'm going to develop a full record,  
7 because, you know, there's a recurring pattern of appeals  
8 right now, 11 or 12 appeals, I think, not to mention motions  
9 to withdraw the reference. If we're going to have higher  
10 courts involved in the administration of this case, I'm going  
11 to make a very thorough record so nobody is confused about  
12 what we did, what I considered, what my reasoning was.

13 So I kind of think it's unfortunate for us to have to  
14 spend case resources and so much time and fees on things like  
15 this, but I'm going to make sure a Court of Appeals is not  
16 ever confused about what happened and what we did. So that's  
17 just the way it's going to be. And I feel like we have no  
18 choice, given, again, the pattern of appeals.

19 All right. So, with that, Mr. Pomerantz, you had one  
20 other case matter, you said?

21 MR. POMERANTZ: Yes. But before I get to that, Your  
22 Honor, I assume that, in response to the Movants' submission  
23 on the agreement, that we would have right at four or seven  
24 days to respond if we deem it's appropriate?

25 THE COURT: I think that's reasonable. That's

1 reasonable.

2 MR. POMERANTZ: Okay. Thank you, Your Honor.

3 THE COURT: So let me think of how I want to do this.  
4 I'll just do a short scheduling order of sorts that just, it  
5 says in one or two paragraphs, at the hearing on this motion,  
6 the Court raised questions about the jury trial rights and the  
7 Debtor has now submitted the controlling agreements, I'm  
8 giving the Movants 10 days to respond to whether this is  
9 indeed a controlling agreement, and why, if it is, the Movants  
10 have heretofore taken the position they have jury trial  
11 rights. And then I will give you seven days thereafter to  
12 reply, and then the Court will set a further status conference  
13 if it determines it's necessary. Okay?

14 So, Nate, we'll do a short little order to that effect.  
15 Okay?

16 MR. POMERANTZ: Thank you, Your Honor.

17 I -- again, before I raise the other issue, I want to pick  
18 up on a comment Your Honor just made towards the end. I know  
19 the Court has been frustrated with the time and effort we've  
20 been spending. The Debtor and the creditors have been  
21 extremely frustrated, because in addition to the time and  
22 effort everyone's spending, we're spending millions of  
23 dollars, millions of dollars on litigation that --

24 THE COURT: It's one of the reasons you needed an  
25 exit loan, right?

1 MR. POMERANTZ: Right. No, exactly. That's  
2 frivolous, that we think is made in bad faith.

3 And Your Honor, and everyone else who's hearing this on  
4 behalf of Mr. Dondero, should understand we're looking into  
5 what appropriate authority Your Honor would have to shift some  
6 of the costs. Your Honor did that in the contempt motion.  
7 Your Honor can surely do that in connection with the notes  
8 litigation. But all this other stuff that is requiring us to  
9 spend hundreds and hundreds of hours and spend millions of  
10 dollars, we are clearly looking into whether it would be  
11 appropriate and what authority there is. I just wanted to let  
12 Your Honor know that.

13 And in connection with that, the last point, Your Honor, I  
14 can't actually even believe I'm saying this, but there was  
15 another lawsuit filed -- we just found out in the break -- on  
16 Wednesday night by the Sbaiti firm on behalf of Dugaboy in the  
17 District Court.

18 Now, to make matters worse, Your Honor, the litigation  
19 relates to alleged improper management by the Debtor of Multi-  
20 Strat. If Your Honor will recall, at many times I've told  
21 this Court what Dugaboy's claims they filed in this case.  
22 Dugaboy has a claim that is filed in this case for  
23 mismanagement postpetition of Multi-Strat. Now the Sbaiti  
24 firm, in addition to representing CLO Holdco, in addition to  
25 representing the DAF, and whatever the Plaintiffs' lawyers are



1 in that other District Court, PCMG, and in connection with the  
2 Acis matter, they've decided they haven't had enough. They've  
3 now filed another motion that -- you know, why they filed it  
4 in District Court and there's a proof of claim on the same  
5 issues, I don't know. But I thought Your Honor should know.  
6 I'm not asking Your Honor to do anything about it. But we  
7 will act aggressively, strongly, and promptly.

8 Thank you, Your Honor.

9 THE COURT: All right. Well, you've reminded me of  
10 what came out earlier today about the entity -- I left my  
11 notepad in my chambers -- PMC or PMG or something.

12 Mr. Bridges, we're not going to have a hearing right now  
13 on me doing anything, but what are you thinking? What are you  
14 doing?

15 MR. BRIDGES: Your Honor, I'm not trying to duck your  
16 question. I literally have no involvement with any other  
17 claim, and we would have to ask Mr. Sbaiti to answer your  
18 questions.

19 THE COURT: All right. Is he there?

20 MR. BRIDGES: He is.

21 THE COURT: I'll listen.

22 MR. BRIDGES: I'll switch seats and give him this  
23 chair.

24 MR. SBAITI: Sorry, Your Honor. We had two computers  
25 going and weren't able to use the sound on one, so we ended up

1 turning that off.

2 Your Honor, I'm not sure what the question is about when  
3 you say what are we thinking. We have a client that's asked  
4 us to file something, and when we're advised by bankruptcy  
5 counsel that it's not prohibited for us to do so, and don't  
6 know why we're precluded from doing so, and when the time  
7 comes I'm sure we'll be able to explain to Your Honor --  
8 someone will be able to explain to Your Honor why what we're  
9 doing, despite Mr. Pomerantz's exacerbation, or excuse me,  
10 exasperation, why that wasn't improper. It's our belief that  
11 it wasn't improper or a violation of the Court's rule.

12 THE COURT: Just give me a quick shorthand *Readers'*  
13 *Digest* of why you don't think it's improper.

14 MR. SBAITI: Sure. My understanding is, Your Honor,  
15 there's not a rule that says we can't file it against the  
16 Debtor for postpetition actions. So that, that's as -- that's  
17 as much as I understand. And I'm going to -- I'm not trying  
18 to duck it, either. And if I'm wrong about that and someone  
19 wants to correct me on our side offline and if we have to  
20 explain to the Court why that's so or what rule has been  
21 violated, I'm sure we'll be able to put together something for  
22 that. But that's what I've been advised.

23 THE COURT: Have you done thorough --

24 MR. POMERANTZ: Your Honor, I think what --

25 MR. SBAITI: (garbled), Your Honor.

1 THE COURT: Have you done thorough research yourself?  
2 Your Rule 11 signature is on the line, not some bankruptcy  
3 counsel you talked to. Have you done the research yourself?

4 MR. SBAITI: Well, Your Honor, I've relied on the  
5 research and advice of people who are experts, and I believe  
6 my Rule 11 obligations also allow me to do that, so yes.

7 MR. POMERANTZ: Your Honor, I think we're entitled to  
8 know if it's Mr. Draper's firm who has been representing  
9 Dugaboy. He's the bankruptcy counsel. I don't think it's an  
10 attorney-client privilege issue. If Mr. Sbaiti is going to be  
11 here and sort of say, hey, bankruptcy counsel said it was  
12 okay, I think we would like to know and I'm sure Your Honor  
13 would like to know who is that bankruptcy counsel.

14 THE COURT: Yes. Fair enough. Mr. Sbaiti?

15 MR. SBAITI: Your Honor, in consultation with Mr.  
16 Draper and with consultation with other counsel that we've  
17 spoken to, that has been our understanding.

18 THE COURT: Who's the other counsel?

19 MR. SBAITI: Well, we've talked to Mr. Rukavina about  
20 some of these things for the PCMG and the Acis case. We've  
21 talked to the people who, when they tell us you can't do this  
22 because they're bankruptcy counsel for our client, then we  
23 don't do something. So, and I'm not trying to throw anybody  
24 under the bus, but my understanding of what goes on in  
25 Bankruptcy Court is incredibly limited, so, you know, and if

1 it's a mistake then I'll own it, if I have a mistaken  
2 understanding, but I also wasn't anticipating having to make a  
3 presentation about this right here right now, so --

4 THE COURT: Well, you're filing lawsuits that involve  
5 this bankruptcy case during the hearing, so --

6 MR. SBAITI: Oh, we didn't file it during the  
7 hearing, Your Honor. It was filed last night, I believe.

8 THE COURT: Okay. Well, I assume that you're going  
9 to go back and hit the books, hit the computer, and be  
10 prepared to defend your actions, because your bankruptcy  
11 experts, they may think they know a lot, but the judge is not  
12 very happy about what she's hearing.

13 MR. POMERANTZ: Your Honor, if I may ask when Your  
14 Honor intends to issue the contempt ruling in connection with  
15 the June 8th hearing? I strongly believe -- and, obviously,  
16 this has nothing to do with the contempt hearing; this  
17 happened after -- but I strongly believe that sending a  
18 message that Your Honor is inclined to hold counsel in  
19 contempt, which obviously is one of the violators we said  
20 should be held in contempt, it may be important to do that  
21 sooner rather than later so that people know that Your Honor  
22 is serious.

23 THE COURT: All right. Well, I understand and  
24 respect that request. And let me tell you all, I had a seven-  
25 day -- okay. You all were here on that motion June 8th. I

1 had a seven-day, all-day, every-day, 9:00 to 5:00, 45-minute  
2 lunch break, in-person hearing with a dozen or so live  
3 witnesses that I just finished Tuesday at 5:00 o'clock. So  
4 you all were here on the 8th, and then -- what day was that --  
5 what was -- Tuesday, I finished. Tuesday was the 22nd. So I  
6 started on the 14th, okay? So you all were here on the 8th  
7 and I had a live jury trial -- I mean, not jury trial, a live  
8 bench trial -- live human beings in the courtroom, beginning  
9 June 14th. So you're here the 8th. June 14th through 22nd, I  
10 did my trial. And here we are on the 25th. And guess what, I  
11 have another live human-being bench trial next week, Monday  
12 through Friday.

13 So we've been working in other things like this in between  
14 those two. So I'm telling you that not to whine, I'm just  
15 telling you that, that's the only reason I didn't get out a  
16 quick ruling on this, okay?

17 MR. POMERANTZ: And Your Honor, I was not at all  
18 making that comment to imply anything about the Court.

19 THE COURT: Well, --

20 MR. POMERANTZ: The time and effort that you have  
21 given to this case is extraordinary, --

22 THE COURT: Okay.

23 MR. POMERANTZ: -- so please don't misunderstand my  
24 comment.

25 THE COURT: Okay. And I didn't mean to express

1 annoyance or anything like that. I guess what I'm trying to  
2 do is I don't want anyone to mistake the delay in ruling on  
3 the contempt motion to mean I'm just not that -- you know, I'm  
4 not prioritizing it, other things are more serious to me or  
5 important to me, or I'm going to take two months to get to it.  
6 It's literally been I've been in trial almost all day long  
7 every day since you were here. But trust me, I'm about as  
8 upset as upset can be about what I heard on June 8th, and I'm  
9 going to get to that ruling, and I know what I'm going to do.  
10 And, well, like I said, it's just a matter of figuring out  
11 dollars and whom, okay? There's going to be contempt. I just  
12 haven't put it on paper because I've been in court all day and  
13 I haven't come up with a dollar figure. Okay?

14 So I hope -- I don't know if that matters very much, but  
15 it should.

16 All right. We stand adjourned.

17 (Proceedings concluded at 3:35 p.m.)

18 --oOo--

19

20 CERTIFICATE

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

23 **/s/ Kathy Rehling**

**06/29/2021**

24

\_\_\_\_\_  
Kathy Rehling, CETD-444  
Certified Electronic Court Transcriber

\_\_\_\_\_  
Date

25

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

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

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

  
United States Bankruptcy Judge

Signed June 29, 2021

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

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

**ORDER DENYING MOTION FOR MODIFICATION OF ORDER AUTHORIZING  
RETENTION OF JAMES P. SEERY, JR. FILED BY CHARITABLE DAF FUND L.P.  
AND CLO HOLDCO, LTD.**

This matter having come before the Court on the *Motion for Modification of Order Authorizing Retention of James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction* [Docket No. 2248] (the "Motion")<sup>2</sup> filed by Charitable DAF Fund, L.P. and CLO Holdco, Ltd. in the above-captioned chapter 11 case (the "Bankruptcy Case"); and this Court having considered (a) the Motion; (b) the *Debtor's Objection to Motion for Modification of Order Authorizing Retention of*

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

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

*James P. Seery, Jr. Due to Lack of Subject Matter Jurisdiction* [Docket No. 2311] (the “Objection”) filed by Highland Capital Management, L.P., the above-captioned debtor and debtor-in-possession (the “Debtor”); (c) the documents admitted into evidence during the hearing held on June 25, 2021 with respect to the Motion (the “Hearing”); and (d) the arguments made during the Hearing; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED** that:

1. The Motion is **DENIED** for the reasons stated on the record during the Hearing.
2. The Court shall retain exclusive jurisdiction to hear and determine all matters arising from the implementation of this Order.

###End of Order###

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS (DALLAS)

IN RE:	.	Case No. 19-34054-11 (SGJ)
	.	
HIGHLAND CAPITAL	.	
MANAGEMENT, L.P.,	.	
	.	
	.	
Debtor.	.	
. . . . .	.	
	.	Adv. No. 21-03067 (SGJ)
CHARITABLE DAF FUND, LP,	.	
et al.,	.	
	.	
Plaintiffs,	.	Earle Cabell Federal Building
	.	1100 Commerce Street
v.	.	Dallas, Texas 75242
	.	
HIGHLAND CAPITAL,	.	
MANAGEMENT, L.P., et al.,	.	
	.	
Defendants.	.	Tuesday, November 23, 2021
. . . . .	.	9:40 a.m.

TRANSCRIPT OF HEARING ON  
PLAINTIFFS' MOTION TO STAY ALL PROCEEDINGS (55);  
PLAINTIFFS' MOTION TO STRIKE REPLY APPENDIX (47); AND  
DEFENDANTS' MOTION TO DISMISS COMPLAINT (26)

**BEFORE HONORABLE STACEY G. JERNIGAN  
UNITED STATES BANKRUPTCY COURT JUDGE**

TELEPHONIC APPEARANCES CONTINUED ON NEXT PAGE.

Audio Operator: Hawaii S. Jeng

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1 THE COURT: Good morning. Please be seated.

2 All right. We have a setting in the Charitable DAF  
3 Fund, et al., v. Highland, Adversary 21-3067. We have three  
4 motions that are set.

5 Let me get appearances from the Plaintiffs' counsel  
6 first. Go ahead.

7 MR. SBAITI: Good morning, Your Honor. This is Mazin  
8 Sbaiti for the Plaintiffs.

9 THE COURT: Okay. Thank you.

10 Now for the Defendants, who do we have appearing?

11 MR. POMERANTZ: Good morning, Your Honor. It's Jeff  
12 Pomerantz and John Morris from Pachulski Stang Ziehl & Jones.  
13 Your Honor, before -- I understand Your Honor is going to take  
14 up the motion to stay first.

15 Before Your Honor does so, I have a procedural issue  
16 relating to that motion that I would like to address the Court  
17 after appearances are made.

18 THE COURT: All right. I assume that's all the  
19 lawyer appearances for this adversary.

20 MR. JORDAN: Your Honor?

21 THE COURT: Oh, go ahead.

22 MR. JORDAN: Your Honor, we are a nominal defendant,  
23 but John Jordan on behalf of Highland CLO Funding, Ltd.

24 THE COURT: Okay. Thank you. Sorry about that.

25 MR. BESSETTE: And, Your Honor, Paul Bessette, Mr.

1 Jordan's colleague is on the phone, as well.

2 THE COURT: Okay. Thank you.

3 All right. Anyone else I missed?

4 (No audible response)

5 THE COURT: All right. Mr. Pomerantz, your  
6 procedural issue?

7 MR. POMERANTZ: Thank you, Your Honor.

8 Your Honor, I must once again bring to this Court's  
9 attention a violation of the Court Rules by the various counsel  
10 representing Mr. Dondero. This time it's by Mr. Sbaiti.

11 When the district court entered its order granting  
12 Highland's motion to enforce the reference and referring this  
13 matter to Your Honor, there were three matters on the Court's  
14 docket, district court's docket that got transferred. First  
15 was the motion to dismiss, second was the motion to stay, and  
16 third was the motion to strike, which essentially has been  
17 rendered moot.

18 The briefing was complete with respect to the first  
19 two matters, the motion to dismiss and the motion to stay. And  
20 all that remained for the Court to do was to set a hearing and  
21 have oral argument. Your Honor, on October 13th, Your Honor  
22 set a hearing for today for each of those two motions.  
23 Nevertheless, on November 10th, almost a month after the Court  
24 set the matters for hearing and after pleadings were closed,  
25 Plaintiffs filed what they called their amended motion to stay.



1           As an initial matter, Your Honor, the amended motion  
2 was not even filed in this adversary proceeding initially. It  
3 was filed in the main case, and there was an error that Mr.  
4 Sbaiti corrected on November 18th, five days before this  
5 hearing. Plaintiff did not ask for leave of court to file any  
6 further pleadings. They did not provide the time under the  
7 local rules for response. And, in fact, they raised additional  
8 arguments in their amended motion.

9           Well, Your Honor, we can certainly argue to the Court  
10 that the amended motion constitutes a new motion, is untimely,  
11 and the hearing should be continued to allow us to file a  
12 response. We're not going to do that, Your Honor. As I will  
13 discuss when it's my time to respond substantively to the  
14 motion, the new arguments to stay the proceedings, the amended  
15 motion are equally as frivolous as the arguments contained in  
16 the original motion.

17           But I bring this to the Court's attention because,  
18 again, it's extremely frustrating to have the lawyers  
19 representing Mr. Dondero's related entities continue to act as  
20 if the rules do not apply to them. Your Honor will recall just  
21 a week or so ago, Your Honor made a -- we had a similar issue  
22 in connection with the motion to dismiss. Failure to follow  
23 the rules is unprofessional, and it's disrespectful not only to  
24 Highland's professionals but also to the Court and it  
25 interferes with Your Honor's ability to control your docket and

1 sufficiently prepare for contested matters.

2 At some point, Your Honor, there should be real  
3 consequences for the continued violation of the rules. Having  
4 said that, Your Honor, we are prepared to go forward with the  
5 motion to stay today.

6 THE COURT: All right. Mr. Sbaiti, what say you?  
7 I'm looking at Docket Entry Number 69 in the adversary  
8 proceeding that was filed last Thursday. So, obviously, very,  
9 very late in the game, shall we say. What is your response to  
10 this?

11 MR. SBAITI: Your Honor, that was not filed in the  
12 adversary as an error. When we asked one of our paralegals to  
13 file it, we're not as familiar with the bankruptcy court system  
14 and it was an error. It was corrected once the lawyers  
15 realized it, which was last -- which was on November the 18th.  
16 It was filed in, I guess in the main case. But it was simply  
17 an inadvertent error, Your Honor.

18 MR. POMERANTZ: I would add, Your Honor, the original  
19 motion filed inadvertently was November 10th. It still was not  
20 timely. I think Mr. Sbaiti needs to answer the question of why  
21 that was filed untimely, okay.

22 THE COURT: All right. Thank you, Mr. Sbaiti.

23 So, one of my pet peeves in life is people blaming  
24 paralegals, by the way. But be that as it may, as Mr.  
25 Pomerantz points out that it was still untimely the motion

1 filed in the underlying bankruptcy case November 10th. So what  
2 is your --

3 MR. SBAITI: Your Honor, when we looked at the motion  
4 and looked at the progression of the case, we filed an amended  
5 motion simply to clarify our position. And really I don't  
6 think we've changed our arguments all that much. We simply  
7 clarified our position. We've seen amended motions filed in  
8 the bankruptcy in our prior dealings, and so at that point, we  
9 felt like there wasn't a rule explicitly saying we couldn't  
10 have an amended motion.

11 But if it's untimely, Your Honor, you know, we don't  
12 think it changes the underlying arguments. As Mr. Pomerantz  
13 said, we don't think there's any prejudice to Highland either.

14 THE COURT: All right. Well, just to be clear, you  
15 know, it's one thing in an underlying bankruptcy case to file  
16 an amended motion after you've gotten a motion set for hearing  
17 that might slightly adjust, you know, facts or relief sought.  
18 And, of course, we independently look at it when it happens in  
19 an underlying case to see do we need more notice to affected  
20 parties.

21 But in an adversary proceeding, you know, you just  
22 don't do this. All right? If you have some sort of  
23 exceptional circumstances, you can file I guess a motion to  
24 amend because I got to include this new information that didn't  
25 exist. But you just don't do this, okay?

1           So I don't -- could you be clear what was the new  
2 information? What was the new information that had to be  
3 brought before the Court suddenly?

4           MR. SBAITI: Your Honor, there wasn't new  
5 information. We were simply giving notice of our understanding  
6 of where the legal arguments were going. The reason being is  
7 that after those motions were filed and recently, the debtor  
8 took the position in two other cases that they should be  
9 dismissed pursuant to the permanent injunction.

10           And so that clarified for us at least a couple of  
11 arguments that were unclear to us where the debtor stood on  
12 whether or not the permanent injunction would be a basis to  
13 dismiss or stay any of the claims that were pending. There are  
14 two other claims pending in district court. Since we had filed  
15 that motion, the debtor filed a motion to reconsider the stays  
16 that were granted in those two courts. And then they also  
17 moved to dismiss on the basis of the permanent injunction.

18           And so given that the debtor took the position that  
19 they were willing to dismiss those cases based upon the  
20 permanent injunction, it in many ways contravenes the position  
21 they took in response to our motion which is that the -- for  
22 example, they somewhat take the position in Paragraph 22, it  
23 wasn't as clear then but it's clear -- it seems clearer now  
24 that the permanent injunction is not relevant to whether or not  
25 the case can go forward in any capacity.

1           And so we simply wanted to incorporate that, but it's  
2 mainly legal argument about the choices that are before the  
3 Court. That was really it. I mean, theoretically, I would  
4 have made them for the first time during oral argument and we  
5 thought we were doing something good by giving -- apprising the  
6 Court in writing and giving notice of these arguments to the  
7 other side by filing an amended motion. We didn't add new  
8 evidence or anything like that.

9           MR. POMERANTZ: Your Honor, that argument is  
10 completely disingenuous because our motion to dismiss and  
11 motion for reconsideration that Mr. Sbaiti refers to is several  
12 weeks ago, okay. It wasn't November 10th. It was several  
13 weeks ago.

14           I will respond substantively why Mr. Sbaiti is wrong  
15 and there's no inconsistent positions when it's my time to  
16 speak. But for Mr. Sbaiti to say he was doing us a favor and  
17 he was reacting to recent new information is just wrong, Your  
18 Honor. And they should just not be continued to allowed to get  
19 away with flouting the rules.

20           THE COURT: All right. Well, let me just say I'm  
21 confused, maybe I should say baffled, about this amended  
22 motion. You know, the motion to dismiss that is before the  
23 Court for oral argument today isn't about the injunction, isn't  
24 about the plan injunction. It's about res judicata and other  
25 12(b)(6) arguments.

1           So I'm confused and I think, you know, it's been  
2 clear for many months in this adversary proceeding, in  
3 particular, the debtor's position on the plan injunction,  
4 particularly, you know, in the whole argument on the motion to  
5 leave to add Mr. Seery as a defendant.

6           So I'm confused, but we're going to go forward on the  
7 argument today, whatever argument you want to make. And you've  
8 been, I guess, forewarned. I will say that these last-minute  
9 amended motions are not going to be tolerated, are not going to  
10 be considered. And so, you know, I hope you won't do it again.  
11 Your firm has already been sanctioned once in this adversary  
12 proceeding. I'm sure we all remember.

13           So, you know, I'm just kind of baffled why you would  
14 take a chance filing an amended motion without leave or somehow  
15 getting it to the attention of the Court or running it by the  
16 other parties for their consent to you doing it. But we're  
17 going to go forward and just hear the arguments, okay. And so  
18 --

19           MR. SBAITI: Thank you.

20           THE COURT: -- I'll hear your argument.

21           I'm letting people know I don't know where this time  
22 estimate came on the calendar today, three hours. I don't know  
23 if someone specifically expressed that. But I'm letting you  
24 know at noon I have a swearing-in ceremony that I'm doing back  
25 in my chambers. So I will stop at noon Central time.

1 And so does anyone think that's going to be a  
2 problem?

3 MR. SBAITI: It should not be, Your Honor, from our  
4 perspective.

5 THE COURT: Mr. Pomerantz?

6 MR. POMERANTZ: I don't believe so. Mr. Morris is  
7 going to handle the motion to dismiss which is going to be the  
8 bulk. My presentation on the motion to stay is only going to  
9 be around ten minutes or so.

10 THE COURT: Okay. Thank you.

11 Mr. Sbaiti, your argument on the motion for stay.

12 MR. SBAITI: Thank you, Your Honor.

13 Your Honor, may I share my screen?

14 THE COURT: You may.

15 MR. SBAITI: I have a PowerPoint that can kind of --

16 THE COURT: Okay. You may.

17 MR. SBAITI: -- walk us through. Thank you.

18 Is Your Honor able to see my screen?

19 THE COURT: I can, yes.

20 MR. SBAITI: Thank you, Your Honor.

21 Your Honor, what I would point you to is, first, the  
22 injunction language. This is what Your Honor's permanent  
23 injunction says, and this is really what animates our motion to  
24 stay. Our motion to stay is derived specifically because my  
25 clients and I feel like our case has been enjoined by this



1 injunction, if not completely disposed of.

2 The language says that we're an enjoined:

3 "An enjoined party is permanently enjoined from  
4 commencing, conducting, or continuing in any manner  
5 any suit, action, or other proceeding of any kind  
6 including any proceeding in a judicial, arbitral,  
7 administrative, or other forum against or affecting  
8 the debtor or the property of the debtor."

9 And then (v) of that injunction says:

10 "or acting or proceeding in any manner in any place  
11 whatsoever that does not conform to or comply with  
12 the provisions of the plan."

13 One of the things that was suggested in Paragraph 22  
14 of their response was that the DAF and Holdco are not enjoined  
15 parties. But the final plan defines an enjoined party in  
16 Article 1(b) (56) as any entity who has or -- all entities who  
17 have held, hold, or may hold claims against the debtor; any  
18 entity that has appeared and/or filed any motion, objection, or  
19 other pleading in this Chapter 11 case regardless of the  
20 capacity in which such entity appeared and any other party in  
21 interest. And, five, the related persons of each of the  
22 foregoing.

23 Article 1(b) (22) defines a claim as any claim that's  
24 defined in Section 1015 of the Bankruptcy Code. And Section  
25 1015 of the Bankruptcy Code defines a claim as a right to

1 payment whether or not such right is reduced to judgment,  
2 liquidated, unliquidated, fixed, contingent, matured,  
3 unmatured, disputed, undisputed, legal, equitable, secured, or  
4 unsecured.

5           So given this definition, when we've read this  
6 injunction, we believed that we were enjoined parties, the DAF  
7 and Holdco were both enjoined parties. They had appeared in  
8 the -- they have claims. Obviously, those are the claims being  
9 asserted here.

10           And so going back to the injunction language, we  
11 believe this lawsuit has been disposed of by this permanent  
12 injunction. We believe there's really only one or two things  
13 that should probably happen with this lawsuit. Either it could  
14 be dismissed based upon the permanent injunction or what we  
15 proposed in our motion to stay is that the Court exercise its  
16 inherent authority to simply stay the case pending the appeal  
17 of this language, which is up on appeal in the Fifth Circuit  
18 right now.

19           If that language, and if the injunction gets affirmed  
20 by the Fifth Circuit, then certainly the dismissal can happen  
21 once that affirmance happens and there's no harm, no foul, and  
22 no one's wasted any time.

23           If they're not, if it's overturned, then, obviously,  
24 the injunction would be vacated, presumably by the Fifth  
25 Circuit. And at some point, if the Court decides not to enter

1 a similar injunction that would likewise dispose of this case,  
2 then the case could proceed on the merits.

3           The issue we've identified both in our original  
4 motion and as we fleshed out in our -- as a matter of law in  
5 our amended motion to simply put a finer point on it is that  
6 the merits are now -- have been disposed of. This injunction  
7 ends this case, at least as far as we read it. It ends this  
8 case irrespective of the underlying merits of the lawsuit,  
9 which means that the lawsuit merits themselves have become moot  
10 and any opinion or any attempt to resolve it is obviously an  
11 advisory opinion by the Court.

12           So we really only see two ways that this could go  
13 right now without either gutting the injunction or  
14 circumventing it completely, which is to say that either the  
15 case should be dismissed based upon the permanent injunction or  
16 the case should be stayed based upon the permanent injunction.

17           Mr. Pomerantz or the debtors' brief suggests that,  
18 well, the injunction doesn't prevent hearing pending motions.  
19 But I would respectfully disagree with that. If you look at  
20 the language, "commencing, conducting, or continuing in any  
21 manner in any suit, action, or other proceeding against or  
22 affecting the debtor."

23           As 12(b)(6) hearing, I would imagine, was intended to  
24 fall under the umbrella of a proceeding. And us arguing a  
25 12(b)(6) motion would us be conducting and maybe even

1 continuing the suit because we're trying to protect the merits  
2 of the suit, which as I said are at this juncture already moot.

3           And so it comes down to I think a very simple  
4 question, which is what do we do at this juncture. Do we just  
5 simply dismiss the lawsuit in light of this permanent  
6 injunction or stay the lawsuit in light of this permanent  
7 injunction?

8           The debtor makes a lot of hay out of the fact that,  
9 well, there are special rules that apply when you're trying to  
10 stay a case pending appeal. But if you look at all of their  
11 case law, it has to do with different circumstances where an  
12 appeal -- where there's a matter on appeal that could  
13 substantially affect the resolution of the case, which here we  
14 think it actually could. But in those cases, those appeals  
15 would affect the resolution of the case on the merits; whereas,  
16 here, the question goes to whether or not a permanent  
17 injunction that really has stopped us all in our tracks.

18           As soon as we understood this injunction and its  
19 scope, we're the ones who reached out to the debtor's counsel  
20 and asked them on a meet-and-confer whether or not they would  
21 just agree to stay the matter. And we were a little bit  
22 surprised by their reaction when they first didn't think that  
23 this applied to our case, and we didn't understand how. And  
24 then they changed their mind, said it did apply to our case but  
25 they didn't think that we should stay the case. And they

1 didn't suggest let's just dismiss it based upon the permanent  
2 injunction.

3           So it kind of comes down to the same small -- same  
4 simple issue, Your Honor. There's this permanent injunction,  
5 and I don't think there's any way for us to get around it at  
6 this juncture.

7           THE COURT: Mr. Pomerantz:

8           MR. POMERANTZ: Yes, Your Honor.

9           I'm going to respond to several of the arguments Mr.  
10 Sbaiti made in his motion, which apparently he's abandoned  
11 because he only is focused on the injunction. And I'm also  
12 going to tell Your Honor, what our arguments are because  
13 despite Mr. Sbaiti's efforts, he's completely misquoted them.

14           So in the motion and the amended motion, the  
15 Plaintiffs make several arguments why this Court should stay  
16 the matter. First, they argue they're entitled to a stay  
17 because the exculpation provision in the plan prohibits them  
18 from proceeding against the Defendants in the action. And  
19 there are several problems with that argument.

20           First, Mr. Sbaiti and the Plaintiffs don't even  
21 attempt to meet the Fifth Circuit's standards for a stay  
22 pending appeal because, of course, they can't. Mr. Sbaiti's  
23 trying to sidestep the grounds for a stay pending appeal by  
24 arguing it doesn't apply just is incorrect.

25           They would have to show that there is a likelihood of

1 success on the merits, they would suffer irreparable harm, the  
2 debtor wouldn't suffer irreparable harm, and there is -- public  
3 interest supports a stay. They can't do any of them.

4 In fact, as Your Honor is well aware, Your Honor  
5 denied the actual appellants in that suit, in that order, the  
6 confirmation order, a stay pending appeal and that was denied  
7 by the district court and also denied by the Fifth Circuit  
8 Court of Appeals.

9 The Plaintiffs didn't object to the plan, they are  
10 not parties to the appeal, and they never sought a stay pending  
11 appeal. So they really can't explain why they as really  
12 strangers to the appeal are entitled to a stay of the  
13 effectiveness of the plan when the actual appellants to that  
14 order were denied a stay pending appeal up through the  
15 appellate ladder.

16 Second, notwithstanding Mr. Sbaiti's arguments in the  
17 motion, the exculpation provision is neither as broad nor does  
18 it affect all the parties that are subject to this litigation.  
19 There are three Defendants in the complaint. The only  
20 Defendant that is covered by the exculpation provision is the  
21 debtor. The exculpation provision does not apply HCF Advisors,  
22 and it does not apply to Highland CLO Funding.

23 Also, while the exculpation provision does apply to  
24 the debtor, it only exculpates the debtor from claims of  
25 negligence. The complaint raises a variety of causes of action

1 that have nothing to do with negligence and would not be  
2 covered by the exculpation provision.

3           But, Your Honor, the biggest problem with their  
4 argument that the exculpation provision supports a stay is that  
5 the exculpation -- the appeal of the exculpation provision has  
6 nothing to do with this case. Why? Because the Fifth Circuit  
7 appeal concerns whether the exculpation provision is  
8 appropriate for parties other than the debtor. The debtor is  
9 the only Defendant in this case that obtains the benefit of the  
10 exculpation.

11           And there is no dispute, there was no dispute at  
12 confirmation, there's no dispute in the case law, there's no  
13 dispute in Pacific Lumber, there's no dispute in the appeal  
14 that a plan can exculpate the debtor. So the Fifth Circuit  
15 appeal doesn't implicate the exculpation provision and cannot  
16 support a basis for a stay.

17           The next argument Mr. Sbaiti makes is the injunction  
18 provision, and the injunction provision is on appeal to the  
19 Fifth Circuit. But the aspect of the appeal of the injunction  
20 is not the provision that Mr. Sbaiti points to.

21           And, again, as with the exculpation provision, the  
22 same arguments about failure to obtain a stay, failure to be  
23 party to the appeals, and failure to object to the plan apply,  
24 as well. But as is the case with the exculpation provision,  
25 the resolution of the appeal of the injunction provision will



1 not affect this case in any way.

2           They point to the portion of the injunction that  
3 prohibits enjoined parties from directly or indirectly  
4 continuing, commencing, or conducting in any manner any suit or  
5 action proceeding against the debtor. They argue that they  
6 cannot proceed without violating the injunction because the  
7 injunction was intended to put all litigation against the  
8 debtor to an end.

9           But, of course, Your Honor, that is not true. That  
10 is not what the injunction is. The issue on appeal before the  
11 Fifth Circuit as it relates to the injunction is whether the  
12 injunction impermissibly enjoins parties from enforcing their  
13 rights with respect to post-effective date commercial  
14 relationships with the reorganized debtor. And, of course, we  
15 argue that it's appropriate, but it has nothing to do with the  
16 provision Mr. Sbaiti identified.

17           The appeal does not impact in any way whether a plan  
18 can enjoin prosecution of claims that arose prior to the  
19 effective date. And, of course, such a plan provision is  
20 completely appropriate and is customary. The plan provided the  
21 debtor as the plan provides all debtors with a fresh start and  
22 enjoins litigation against the debtor.

23           But importantly, Your Honor, that does not mean as  
24 Plaintiffs argue that any liability for pre-effective date  
25 conduct just goes away and that creditors are left without a

1 remedy to pursue claims against the debtor for pre-effective  
2 date conduct.

3           Rather, if they have a pre-petition claim in lieu of  
4 their litigation that's pending, they file a pre-petition claim  
5 against the estate and that matter is resolved in the claims  
6 objection procedure. Or, as in the case here, when they make  
7 an allegation that there is a post-petition claim, what do they  
8 do? They file a request for payment of an administrative  
9 claim, and this Court addresses the validity of the  
10 administration claim. The lawsuit pending in another  
11 jurisdiction stops, but the claim has to be resolved in the  
12 bankruptcy court.

13           The only conduct that the injunction really prohibits  
14 is them from proceeding with actions in other courts. It does  
15 not deny them a remedy. Accordingly, their argument that they  
16 cannot proceed with claims against the debtor because of the  
17 injunction provision just lacks any merit and can't form the  
18 basis for a stay.

19           Plaintiffs' next argument in their briefing is that  
20 if the Court refuses to stay the complaint, they will file a  
21 motion to withdraw the reference of this matter to the district  
22 court. Your Honor, this is the biggest head-scratcher of them  
23 all given how this complaint ended up before Your Honor. This  
24 exact issue and Plaintiffs' arguments as to why the reference  
25 should be withdrawn have already been fully briefed and decided

1 by the district court.

2 As Your Honor may recall, the Plaintiff filed this  
3 action in the district court, conveniently failing to include  
4 the bankruptcy case as a related case or mentioning that the  
5 bankruptcy courts have related jurisdiction in the filings.  
6 Your Honor may have had occasion to review the underlying  
7 complaint when the debtor brought a motion for contempt against  
8 counsel for Plaintiffs for pursuing a claim against Mr. Seery  
9 in violation of Your Honor's January 9th, 2020 and July 16th,  
10 2020 orders.

11 Your Honor issued an order finding counsel and  
12 various parties in contempt which order is, of course, subject  
13 to appeal. At the time we were litigating the contempt motion,  
14 we filed two motions in district court. The first was a motion  
15 to enforce the reference and have the district court send that  
16 complaint to Your Honor. And that motion to enforce the  
17 reference is now on Your Honor's docket at Number 22 and 23.

18 The second was the motion to dismiss which is before  
19 Your Honor today. Plaintiffs oppose the motion to enforce the  
20 reference arguing that mandatory withdrawal was required  
21 because the matter involved consideration of non-bankruptcy  
22 federal law, specifically federal securities laws and the  
23 Investment Advisors' Act.

24 Plaintiffs further argue to the district court why  
25 would you refer the case to the bankruptcy court if it's only

1 going to end up back in the district court upon mandatory  
2 withdrawal of the reference. They argue to the district court  
3 that would be a complete waste of time.

4 We filed our reply at Docket Number 42 explaining to  
5 the district court why mandatory withdrawal of the reference  
6 did not apply and why this case should be referred to Your  
7 Honor. And what did the district court subsequently do? It  
8 entered an order referring this action to Your Honor which is  
9 why we are here today.

10 Plaintiffs now flout the district court's order of  
11 reference by telling the Court that if the Court does not stay  
12 the matter, they will file a motion to withdraw the reference  
13 before Your Honor, and they attach virtually identical pleading  
14 that they filed in opposition to our motion to enforce the  
15 reference.

16 Plaintiffs did not disclose in their amended motion  
17 that there was a fully-briefed motion to enforce the reference  
18 before the district court. Plaintiffs' argument is  
19 disingenuous and designed to mislead the Court.

20 The district court has only agreed that mandatory  
21 withdrawal of the reference does not apply and this case  
22 belongs in Your Honor. And while we cannot stop the Plaintiffs  
23 from filing any motion before this Court, we want to put them  
24 on notice that if they do file a motion for withdrawal of the  
25 reference in light of the facts as I just stated them, we will

1 seek sanctions.

2 In any event, Your Honor, the fact that they may file  
3 a motion for withdrawal of the reference at some point in the  
4 future is not grounds to stay the matter.

5 Lastly, Your Honor, Plaintiffs argued in the opening  
6 that Highland's position today in opposing the motion to stay  
7 is inconsistent with positions Highland has taken in two other  
8 lawsuits commenced by the Sbaiti firm. Like all of their other  
9 arguments, they misrepresent the facts and are frivolous.

10 The Sbaiti firm filed a complaint on behalf of the  
11 DAF in the district court arguing that Highland mismanaged  
12 (audio drop). That complaint followed in the heels of an  
13 almost identical complaint filed by Dugaboy asserting the same  
14 claims.

15 And Your Honor may recall questioning Mr. Sbaiti at a  
16 hearing in June how Dugaboy could pursue such a claim in the  
17 district court if Dugaboy had a pending proof of administrative  
18 claim on file in the bankruptcy case. Well, soon after that  
19 hearing, Your Honor, the Dugaboy complaint was dismissed, and a  
20 few days later the DAF complaint was filed. That complaint has  
21 never been served on Highland.

22 The second lawsuit is also a lawsuit filed by the  
23 Sbaiti firm on behalf of an entity called PCMG in the district  
24 court. And PCMG previously held less than five one-hundredths  
25 of a percent interest in a certain fund managed by highland.

1 The lawsuit alleges that Highland acted improperly to sell  
2 certain assets of the fund, thereby damaging PCMG. That  
3 complaint has also never been served on Highland.

4 The Plaintiffs sought a stay of those matters before  
5 Highland could file a response, and the court -- the district  
6 court's entered stays in those matters. And Highland has filed  
7 motions for reconsideration and the motions to dismiss because  
8 they violate the injunction.

9 But, importantly, Your Honor, if you read the  
10 motions, Highland does not argue that Plaintiffs do not have a  
11 remedy for the alleged wrongs they say they suffer. Rather,  
12 Highland's argument is that any claims alleged in those  
13 lawsuits, just like any claims alleged in the lawsuit before  
14 Your Honor today, must proceed in bankruptcy court as part of  
15 the claims objection process. That's where they will have  
16 their day in court. The lawsuits don't go away. The  
17 injunction prevents them from continuing on in district court.

18 Accordingly, Highland is being totally consistent in  
19 all matters, and the litigations may not proceed there but must  
20 proceed before Your Honor. And, of course, none of these three  
21 matters are implicated by the Fifth Circuit appeal.

22 Your Honor, the amended motion was procedurally  
23 improper and is substantively without merit. And for all these  
24 reasons, we request that the Court deny the stay motion and  
25 proceed with the hearing on the motion to dismiss.

1 Thank you, Your Honor.

2 THE COURT: All right.

3 Mr. Sbaiti, you get the last word.

4 MR. SBAITI: Thank you, Your Honor.

5 Your Honor, the administrative claim process that was  
6 described as being the way that these claims were supposed to  
7 proceed, by the language of the order that we read, does not  
8 allow for these claims. Those claims are limited to a specific  
9 category of claims that don't include the claims that are  
10 alleged in this lawsuit.

11 And in any event, this lawsuit wasn't filed as an  
12 administrative claim. So if that's the case and it needs to be  
13 refiled or reasserted as an administrative claim, then I think  
14 that's a subject for another day. All I know is that we have  
15 this injunction right now that either should stay this case  
16 pending the appeal, which I'll address the issue on appeal in a  
17 moment, or it should be dismissed, perhaps without prejudice so  
18 that it can be refiled properly as an administrative claim if  
19 that's what's supposed to happen, because I guess this converts  
20 the matter.

21 The appeal, the subject of the appeal as to the  
22 injunction, Your Honor, the appeal actually encompasses many of  
23 the issues that we're talking about in this case. Now Mr.  
24 Pomerantz tries to narrow the scope of what's up on appeal, and  
25 that may indeed be the argument that they're going to present



1 to the Fifth Circuit or that they've presented to the Fifth  
2 Circuit.

3 But the actual issue up on appeal is the  
4 enforceability and validity of the order for a variety of  
5 reasons which includes the provision that we're talking about  
6 and the enforceability of the provision that we're talking  
7 about because it gets rid of particular claims. And I guess  
8 the argument back is, no, it doesn't because there's now an  
9 alternative means of going there.

10 Mr. Pomerantz says that we shouldn't have proffered a  
11 motion to enforce the reference. That proffer, however, was  
12 because Judge Boyle's reference to this Court didn't deal with  
13 our motion to -- our cross-motion to withdraw the reference.  
14 All it dealt with was their motion to enforce the reference as  
15 a -- to enforce the standing order in the district court. And  
16 that's all she ordered was she cited the standing order and the  
17 statutes, I think it's 157(a), and that's really all it did.

18 So it left open the question of whether she wanted  
19 Your Honor to deal with the withdrawal of the reference  
20 specifically as to the 12(b)(6) issue in the first instance.  
21 It didn't resolve the question. It doesn't purport to resolve  
22 that question. And it's not unheard of for the district court  
23 then to send the matter to the bankruptcy court and then to  
24 piecemeal which proceedings the withdrawal of the reference is  
25 applicable to and then all the other proceedings would stay

1 with Your Honor or with the bankruptcy court.

2           So we weren't flouting the district court's order,  
3 and we certainly weren't flouting any of the previous orders.  
4 And the threat of a sanction for simply exercising our rights  
5 in due course is not well taken.

6           Now Mr. Pomerantz says, well, the DAF and CLO Holdco  
7 are not parties to the appeal. I don't think that's relevant  
8 because if the provision is struck by the Fifth Circuit, it's  
9 not only struck for the appellants, it's struck as to all.  
10 It's either valid or it's invalid. And even if it's declared  
11 to be invalid only as to the appellants, it's not suddenly  
12 valid as to everyone else who didn't appeal. That's not  
13 generally how these appeals have worked.

14           If the Court doesn't stay this matter, Your Honor,  
15 and doesn't dismiss it, we still maintain, Your Honor, that as  
16 it stands today, the question on the merits have been mooted  
17 and we cannot proceed. I think what Mr. Pomerantz is hoping  
18 for or the debtor is hoping for is a provision where our hands  
19 are potentially tied to argue the motion.

20           And if the Court tells us they're not, then we'll  
21 certainly argue the 12(b)(6). But what I don't want to do is  
22 argue a 12(b)(6) motion that on its face appears to violate the  
23 permanent injunction and then be held in contempt for violating  
24 that injunction.

25           And so that's why we've asked for the Court to either

1 stay the matter under its inherent jurisdiction or to -- if  
2 you're going to -- if it's not going to be stayed, then we  
3 believe it has to be dismissed according to the permanent  
4 injunction as it stands right now.

5 THE COURT: All right.

6 The motion to stay is denied. The amended motion to  
7 stay is likewise denied. This is an odd argument. I guess one  
8 might say the traditional four-factor test for a stay of a  
9 proceeding has really not been the subject of the argument here  
10 for a stay.

11 So suffice it to say the four-prong test for a stay,  
12 you know, hasn't been met here. There hasn't been a showing of  
13 substantial likelihood of success on the merits or irreparable  
14 injury if the stay's not granted or a stay will not  
15 substantially harm others or the stay would serve a public  
16 interest.

17 But going on to the arguments that were focused on by  
18 movant, I just don't think that you have shown that, you know,  
19 either the exculpation clause or the injunction provisions of  
20 the plan somehow tie your hands in arguing the 12(b)(6) motion,  
21 defending against the 12(b)(6) motion today or I just think  
22 that your arguments reflect, frankly, a misunderstanding of how  
23 the injunction language and exculpation language applies here.

24 So the motion for stay is denied, and I will ask Mr.  
25 Pomerantz to submit an order reflecting the Court's ruling.

1           So it looks like we have another procedural matter,  
2 Mr. Sbaiti. You filed a motion to strike reply appendix of the  
3 Plaintiffs quite a while back. So did you want to present  
4 that?

5           MR. SBAITI: Yes, Your Honor. I think it's a very  
6 simple procedural issue.

7           Generally, a party that files a 12(b)(6) is limited  
8 to the four corners of the complaint. And if there's a  
9 contract incorporated or a document incorporated as an  
10 intrinsic part of the complaint, you know, that's usually  
11 considered under the 12(b)(6) motion.

12           What the Defendants did, what the debtor here did is  
13 they filed a bunch of evidence in their 12(b)(6), essentially  
14 attempting to argue it as a summary judgment. We raised that  
15 in our response. So as part of our response, we objected to  
16 all the evidence. But then on the reply, they filed a bunch  
17 more evidence both without leave and improperly, basically  
18 sandbagged us.

19           And so we raised two points for striking that  
20 evidence. One was akin to the first argument, which is it's  
21 not an evidentiary hearing. It's not an evidentiary process in  
22 the first instance. A 12(b)(6) motion has to assume that the  
23 facts pled are true, and then the question is whether they  
24 state a claim.

25           And, secondly, adding them to the reply is especially

1 egregious because the reply is the last word. And we didn't  
2 have an opportunity to respond, and we also don't think it's  
3 relevant nor should we have to respond to a whole bunch of  
4 extra evidence that was attached.

5 That's essentially the basis of our motion, Your  
6 Honor.

7 MR. POMERANTZ: Your Honor, the simple answer to the  
8 issue is we filed the reply of the appendix in connection with  
9 the motion to enforce the reference. We didn't file it in  
10 connection with the motion to dismiss. The motion to enforce  
11 the reference is moot. So what Mr. Sbaiti, his whole argument  
12 doesn't make any sense.

13 As a substantive matter, just there wasn't any  
14 evidence. It was pointing to court pleadings, orders, and  
15 stuff. So it's irrelevant. I don't know why it's still on the  
16 docket. It shouldn't be on the docket since it related to the  
17 motion to enforce the reference.

18 THE COURT: All right. Mr. Sbaiti, did you just  
19 simply --

20 MR. SBAITI: Your Honor, much of that evidence was --

21 THE COURT: -- misunderstand or what?

22 MR. SBAITI: I think we might have because it was  
23 filed as a separate item, and it may have been miscalendared or  
24 misapplied on our system. But the way it was presented to us  
25 when we got it was it appeared to be evidence in support of,

1 well, I guess both, but certainly evidence that was averted to  
2 in the reply.

3 But if they're saying that the Court's not going to  
4 consider it, then that moots the motion and I think we can move  
5 on.

6 MR. POMERANTZ: Yes, Your Honor. I had nothing to do  
7 with his motion. I guess there was another mistake on their  
8 end. I guess that stuff happens occasionally.

9 THE COURT: Okay. All right. So I'll deny it as  
10 based on a mistake that's been acknowledged here. And so with  
11 that, let's have an order cleaning that up, as well, Mr.  
12 Pomerantz, please.

13 With that, we'll move on to the Defendants' motion to  
14 dismiss complaint. I think, Mr. Pomerantz, you said Mr. Morris  
15 will be making this argument?

16 MR. POMERANTZ: That is correct, Your Honor.

17 THE COURT: All right.

18 Mr. Morris, I'll hear your argument.

19 MR. MORRIS: Good morning, Your Honor. John Morris  
20 for Pachulski Stang Ziehl & Jones for the reorganized debtor.  
21 Can you hear me okay?

22 THE COURT: I can. Thank you.

23 MR. MORRIS: Okay.

24 Your Honor, this is a bit like Groundhog's Day. I  
25 believe that we're going to spend the next half hour or an hour

1 discussing the very issues that were before the Court earlier  
2 this year on the HarbourVest 9019 motion.

3           As the Court will recall from the June 8 hearing,  
4 there is a complaint that's been filed ostensibly by the DAF  
5 and CLO Holdco. As Your Honor will recall, the testimony  
6 established that Mark Patrick had just been installed as the  
7 trustee, had no knowledge of the prior events, and Mr. Dondero  
8 and Mr. Sbaiti spent quite some time together formulating this  
9 particular complaint that is nothing less than a collateral  
10 attack on the Court's prior order.

11           I'd like to, if I can, just walk through a PowerPoint  
12 presentation to try to make the debtor's position quite clear,  
13 if I may.

14           THE COURT: You may.

15           MR. MORRIS: And I would ask my assistant, Ms. Canty  
16 (phonetic), to put up the first slide.

17           Your Honor, you'll recall that last December, the  
18 debtor filed its motion under Rule 9019 for court approval of a  
19 settlement. The debtor was completely and utterly transparent  
20 in what the terms of the settlement were.

21           Very briefly, as set forth in Appendix 2 or Exhibit 2  
22 which was the motion itself, in Paragraph 32, Your Honor, the  
23 debtor set forth the terms of the transaction for which it was  
24 seeking approval. Those terms included in the very first  
25 bullet point a statement that HarbourVest shall transfer its



1 entire interest in CLOF to an entity to be designated by the  
2 debtor.

3           And that's an important point that we'll talk about  
4 in a number of different contexts, Your Honor. The debtor made  
5 it very clear at the very first moment of this matter that it  
6 was not going to acquire the asset but the asset was going to  
7 be transferred to an entity to be designated by the debtor.  
8 The debtor's motion filed last December clearly stated the  
9 value of the interest that it would be acquiring in return.  
10 That was also set forth in Paragraph 32 in a footnote.

11           It didn't say that it was the fair market value. It  
12 said the method of valuation was the net asset value and gave a  
13 valuation date of December 1st so that all parties in interest  
14 who received the motion understood the economics of the deal.  
15 And the deal that the debtor was asking the Court to approve  
16 was one whereby HarbourVest would receive certain claims and in  
17 exchange for those claims, they were going to transfer their  
18 interest in CLO -- HCLOF.

19           The debtor also filed on the docket for all to see a  
20 copy of the settlement agreement. The settlement agreement  
21 sets forth the terms of the deal, including again the statement  
22 that HarbourVest "will transfer all of its rights, title, and  
23 interest in HCLOF." It actually says to an affiliate or an  
24 entity to be designated by the debtor. And the transfer  
25 agreement itself was also put on the docket.

1           So that's where things stood just before Christmas.  
2 I know that there's some due process and other type arguments  
3 that are in the Plaintiffs' opposition to the motion. But, of  
4 course, the undisputed facts are that the debtor timely filed  
5 the motion. The time period was consistent with all applicable  
6 rules. Nobody ever asked the debtor for an extension of time.  
7 Nobody ever filed a motion for an extension of time. And so  
8 those due process arguments I think carry no weight at all.

9           So the debtor filed the motion. And if we can go to  
10 the next slide, we see what the responses were, and there were  
11 several. All of the responses, the only responses were  
12 objections to the motion filed by Mr. Dondero and his certain  
13 of his affiliated entities.

14           Mr. Dondero's objection can be summarized as follows.  
15 He made the following observations and asserted the following  
16 objections to the proposed settlement. The first thing he said  
17 is that the settlement far exceeds the bounds of  
18 reasonableness. Now, of course, one cannot make a  
19 determination of reasonableness without having an understanding  
20 of value. The debtor was giving something and it was getting  
21 something.

22           And so Mr. Dondero understood that the issue of value  
23 was front and center. If there was any mistake about it, he  
24 also noted that he understood that as part of the settlement  
25 and, again, I've written this incorrectly, HarbourVest will

1 transfer its entire interest in HCLOF to the debtor. That is  
2 not what Mr. Dondero understood. In fact, Mr. Dondero  
3 understood that it would transfer its entire interest in HCLOF  
4 "to an entity to be designated by the debtor," again, making it  
5 clear that he knew exactly what the debtor was doing here. And  
6 that can be found at Appendix 4 in Footnote 3 on Page 1 if you  
7 want the exact quote from Mr. Dondero's pleading.

8           In the same footnote, he also specifically  
9 acknowledges that he understood the valuation. He understood  
10 the method valuation. He understood the valuation date of  
11 December 1st. And he urged the Court in his pleading to  
12 scrutinize the settlement to make clear that the available  
13 value of the investment should be realized by the debtor's  
14 estate.

15           And this is such a critical point, Your Honor. His  
16 concern was that by placing the value in an entity other than  
17 the debtor itself, that the Court wouldn't have jurisdiction  
18 over that asset. That was his concern. So not only did he  
19 understand that the asset was going to be transferred to an  
20 affiliate, he wanted to make sure that this Court had  
21 jurisdiction over the asset.

22           And, of course, Mr. Seery in his testimony and  
23 otherwise, we provided the Court with all the comfort it needed  
24 to know that even though it was being assigned to a special-  
25 purpose vehicle wholly-owned by the debtor, it would

1 nevertheless be subject to the Court's jurisdiction.

2 Mr. Dondero's trusts also filed an objection if we  
3 can go to the next slide.

4 Dugaboy and Get Good represented by Douglas Draper  
5 made the following observations and asserted the following  
6 objections to the HarbourVest Settlement. They, too, made  
7 clear that they understood that the asset was going to be  
8 transferred to an entity designated by the debtor. They, too,  
9 acknowledge that they understood that the debtor was valuing  
10 the asset at approximately \$22 million as of December 1st. And  
11 their objection was that the Court couldn't evaluate the  
12 settlement without knowing how the asset was valued, without  
13 knowing whether the debtor could acquire the asset, very  
14 critical point.

15 These are the points that are made in the complaint.  
16 These are the exact same points that are made in the complaint.  
17 And also the Court couldn't evaluate the settlement unless they  
18 understood that the value would be inure to the benefit of the  
19 debtor's estate, again, mimicking Mr. Dondero's concern that by  
20 placing the asset in an affiliate of the debtor, that it might  
21 not be subject to the Court's jurisdiction.

22 Finally, and most importantly, if we can go to the  
23 next slide. The Plaintiff, CLO Holdco, filed an objection to  
24 the 9019 motion. And this is just so critical. And this is  
25 the Groundhog Day aspect that I specifically speak of. CLO

1 Holdco's objection was based solely on its assertion that it  
2 had a superior right to the opportunity to acquire the asset  
3 that was being transferred by HarbourVest. It only made one  
4 argument in support of its contention that it had a superior  
5 right, but that argument was specifically premised on the  
6 membership agreement, Section 6.1 and 6.2 of the membership  
7 agreement.

8 CLO Holdco, the Plaintiff in the underlying action,  
9 argued to this Court that HarbourVest had no authority to  
10 transfer the asset without complying with the right of first  
11 refusal that would give CLO Holdco the opportunity to take the  
12 asset for itself. That's what this Court was told. CLO Holdco  
13 didn't make this argument fleetingly. They provided an  
14 extraordinarily detailed analysis of Sections 6.1 and 6.2 of  
15 the membership agreement and concluded "that HarbourVest must  
16 effectuate the right of first refusal before it can transfer  
17 its interest in HCLOF. That was the objection. Objections  
18 have consequences, as Your Honor knows.

19 If we can go to the next slide.

20 By filing an objection, CLO Holdco and the trusts and  
21 Mr. Dondero became participants in the litigation.  
22 Notwithstanding the Plaintiffs' arguments to the contrary, when  
23 they file the objections, they participate in what's called a  
24 contested matter. And in a contested matter, they had every  
25 right to take all discovery on any issue that was related to

1 the 9019 motion, including the transfer, the disposition of the  
2 asset to an affiliate of the debtor, the valuation of the asset  
3 that's being received, the merits of the settlement itself, the  
4 causes of action, whether, you know, what communications that  
5 were, the negotiations, what did Mr. Seery and Mr. Pugatch  
6 discuss? Right?

7           They could have taken any discovery they wanted. And  
8 they did avail themselves of discovery, in fact. They did -- I  
9 don't know why they did what they did, but they chose to take  
10 one deposition, and that was Mr. Pugatch, okay.

11           His deposition transcript, I think is at Exhibit 7,  
12 or Appendix Number 7, and it was a long deposition. It really  
13 was. And they asked Mr. Pugatch at the deposition if he knew  
14 what the value of the asset that was being transferred was.  
15 And he said \$22.5 million. So it wasn't just Mr. Seery or the  
16 debtor who was subscribing to this valuation. The party on the  
17 other side of an arm's length negotiation was subscribing to  
18 the exact same valuation.

19           The Plaintiffs could have taken whatever discovery  
20 they wanted. This is a full and fair opportunity to  
21 participate in the litigation. We proceeded to trial. Before  
22 we got there, actually, the debtor filed its response to CLO  
23 Holdco's objection and proffered its own very detailed and  
24 apparently very persuasive analysis that CLO Holdco's objection  
25 was without merit, that CLO Holdco had no right of first

1 refusal under the facts and circumstances as they existed, and  
2 with Grant Scott, Mr. Dondero's childhood friend at the helm,  
3 we got to Court for the contested hearing on the debtor's 9019  
4 motion, and CLO Holdco withdrew their objection.

5           And I've put up on the screen just an excerpt of the  
6 transcript because, you know, when we talk about whether or *res*  
7 *judicata* should apply, because was there a hearing on the  
8 merits? Was there a decision on the merits? Just look at the  
9 words of CLO Holdco's lawyer. "CLO Holdco has had an  
10 opportunity to review the reply briefing and after doing so has  
11 gone back and scrubbed the HCLOF corporate documents based on  
12 our analysis of Guernsey law."

13           And some of the arguments of counsel in those  
14 pleadings and our review of the appropriate documents, counsel  
15 obtained the authority from Mr. Scott to withdraw the CLO  
16 Holdco objection based on the interpretation of the member  
17 agreement. We were grateful for that and the Court  
18 specifically said in response, "That eliminates one of the  
19 major arguments that we had anticipated this morning."

20           Apparently, the Plaintiffs believe that those events  
21 have no meaning and that this Court's reliance on CLO Holdco's  
22 substantive withdrawal of its objection has no meaning. I  
23 think they're wrong, and we'll get to that in a moment.

24           We proceeded with the hearing. Mr. Seery and  
25 Mr. Pugatch testified at length. If you look at Footnote 3,



1 you'll see Mr. Seery testified for almost 70 pages of  
2 testimony. Mr. Pugatch testified for almost 45 pages of  
3 testimony. His testimony was exhaustive. And, again, any of  
4 the objecting parties had the right to ask whatever questions  
5 they want.

6 But I do want to just note a few things that aren't  
7 up on the screen right now. If you go to Appendix 9, Your  
8 Honor, which is the transcript of the hearing, at Page 13, you  
9 will see that the very first thing I discussed in my opening  
10 statement was the economics and how with a valuation of \$22.5  
11 million this deal made sense for the debtor.

12 You will see from Pages 30 to 42 there is extensive  
13 testimony from Mr. Seery about the amount and the value of the  
14 asset. But the most important part of Mr. Seery's testimony is  
15 that he explains how it came to be that HarbourVest agreed to  
16 transfer its interest in HCLOF to an affiliate of the debtor.  
17 And that came about, not because Mr. Seery or the debtor was  
18 initially at all interested in doing this. The whole idea  
19 originated with HarbourVest.

20 They wanted to extract themselves from the Highland  
21 platform. They wanted to give this piece up. So there's no  
22 conspiracy going on here. The unrebutted testimony that all of  
23 the objecting parties had an opportunity to challenge was that  
24 the whole idea originated with Mr. Pugatch and with  
25 HarbourVest. I think that's an important point to take into

1 account.

2           And finally, again, from the hearing, if you look at  
3 at Appendix 9, you'd also find that Mr. Pugatch, again,  
4 testified, as he had in his deposition, as to the value of the  
5 interest being transferred. So we completed the testimony. We  
6 rested our case having had a full and fair opportunity to  
7 contest the motion. The objecting parties rested as well. And  
8 we got to the point where we had to prepare the notice, and we  
9 were discussing that at the hearing, if we can go to the next  
10 slide.

11           And it's very important, because again, this was all  
12 done transparently, and it was all done on the record. And  
13 after the close of evidence, I addressed the order that was  
14 going to be prepared. I specifically said that I wanted to  
15 make clear that we were going to include a provision, "that  
16 specifically authorizes the debtor to engage in, to receive  
17 HarbourVest the asset, you know, the HCLOF interest," right. I  
18 wanted everybody to know that was what was going to happen, and  
19 then I said, "The objection has been withdrawn." I think the  
20 evidence is what it is and we want to make sure that nobody  
21 thinks they're going to go to a different court somehow to  
22 challenge the transfer. But yet, that is exactly what the  
23 complaint seeks to do.

24           Having put everybody on notice as to where we were  
25 going, as to what the evidence showed, the debtor drafted and

1 the Court adopted an order, and the order says, among other  
2 things, that HarbourVest was authorized to transfer its  
3 interest to the debtor. Actually, it says, "to a wholly owned  
4 and controlled subsidiary of the debtor," pursuant to the  
5 transfer agreement, "without the need to obtain the consent of  
6 any party or to offer such interest first to any other investor  
7 in HCLOF." So the Court heard the 9019 motion pursuant to a  
8 Bankruptcy Rule and entered an order that was unambiguous and  
9 that the Plaintiffs did not appeal from.

10 We can go to the next slide.

11 At a very high level, Your Honor, it is just crystal  
12 clear that the complaint is just inextricably intertwined with  
13 the 9019 proceedings and the order itself. I think Mr. Sbaiti  
14 would agree with me that but for the order that approved the  
15 transfer of the asset and the testimony about the value of that  
16 asset, they have no claims.

17 Every single claim is predicated on what happened in  
18 the 9019 hearing. Every single claim is predicated on the  
19 Court's order approving the transfer of the asset and the  
20 testimony and evidence that was adduced in relation to that  
21 asset.

22 There were really only two issues that the Court -- I  
23 mean, if you want to think about it at its most simplistic  
24 level, the Court was being asked to assess, is it fair, is it  
25 reasonable, is it legally permissible for the debtor to give

1 something. In this case, allowed claims and releases, and to  
2 get something in return. In this case, HarbourVest's interest  
3 in HCLOF and releases in return. And that is really the  
4 gravamen of the complaint.

5           The complaint is based whether it's breach of  
6 fiduciary duty or RICO or breach of contract or tortious  
7 interference, whatever the claim is, none of them exist if the  
8 debtor doesn't get this. They just don't exist. And that is  
9 why the complaint and the proceeding are inextricably  
10 intertwined. And if you just take a look at just one paragraph  
11 of the pleading, it says at the core of this lawsuit is the  
12 fact that HCM, that's the then debtor, purchased the  
13 HarbourVest interests in HCLOF for \$22.5 million knowing that  
14 they were worth far more than that. There's not a cause of  
15 action that exists in the complaint that isn't dependent on  
16 Paragraph 36.

17           So if we can go to the next slide with that  
18 background, I'd like to argue why under 12(b), the complaint  
19 should be dismissed because the claim should be barred under  
20 the doctrine of *res judicata*. Luckily, Your Honor, there is at  
21 least one area of agreement between the parties here, and that  
22 is the purpose of the doctrine and the elements that have to be  
23 satisfied in order to meet the burden of proof necessary to  
24 have the claims barred. And in Footnote 1, you can -- I've  
25 tried to just be helpful to the Court to show that we may not

1 cite to the exact same cases, but the parties agree that the  
2 doctrine is intended to foreclose the re-litigation of claims  
3 that were or could have been raised in a prior action and that  
4 there's four elements that have to be satisfied for the  
5 doctrine to apply.

6           The parties have to be either identical or at least  
7 in privity, the judgment in the prior action had to have been  
8 rendered by a court of competent jurisdiction. Number three,  
9 the prior action had to have been concluded by a judgment on  
10 the merits. And the last one is that the same claim or cause  
11 of action was involved in both suits. So I just want to spend  
12 a few minutes now, Your Honor, going through those four  
13 elements to show the Court how easily the reorganized debtor  
14 meets this standard.

15           If we can go to the next slide, I can take care of  
16 the first two elements very quickly.

17           The first element, the debtor asserted that the  
18 Plaintiffs were parties or in privity with parties to the prior  
19 proceeding. That's at Paragraph 17 of the motion to dismiss.  
20 The debtor relies on the deposition testimony of Grant Scott,  
21 who was then the trustee of the DAF.

22           CLO Holdco is a wholly-owned subsidiary of the DAF,  
23 or wholly controlled, in any event, and Mr. Scott's testimony  
24 was that he was the only director and there were no employees  
25 of either entity. So we, in our motion, put forth evidence to

1 establish the first element, and I don't believe, maybe I've  
2 missed it. I don't believe that the Plaintiffs have contested  
3 that element. If they have, I think Mr. Scott's testimony will  
4 carry the day, in any event.

5           The second element as to whether or not a court of  
6 competent jurisdiction is the entity or the court that rendered  
7 the ruling. Of course, that's been met, too. The Plaintiffs,  
8 in their opposition to the motion to dismiss, suggested that  
9 the bankruptcy court would have lacked jurisdiction if their  
10 cross motion to withdraw the reference was granted. They said  
11 if the district court decides that mandatory withdrawal  
12 applies, then it cannot find that the bankruptcy courts already  
13 entered final judgment was rendered on Plaintiffs' causes of  
14 action and had jurisdiction to do so. I think that's just a  
15 clear misstatement of the law.

16           But in any event, Your Honor, at this point, I  
17 believe it's irrelevant because the district court, in fact,  
18 sent the case back to Your Honor and back to this Court. And  
19 so, at the end of the day, Plaintiffs' argument doesn't hold  
20 water because of the district court's ruling, which can be  
21 found -- the order of reference can be found at Docket  
22 Number 64. And so I think that easily takes care of the second  
23 prong.

24           The third prong is whether -- if we can go to the  
25 next slide -- the prior proceeding resulted in a judgment on

1 the merits. And this is really the critical point, Your Honor.  
2 As the Court knows, the whole doctrine of *res judicata* is  
3 designed to prevent, as the parties agree, the re-litigation of  
4 claims. Stated another way, it's to bring finale. It's to  
5 make sure that the Court doesn't hear the same claims and the  
6 same issues that either were brought or that could have been  
7 brought in a prior proceeding. And so, we believe that we  
8 easily meet the standards set forth in the third prong. The  
9 9019 order necessarily determined that the *quid pro quo* that I  
10 described earlier was fair, reasonable, and legally  
11 permissible.

12           Notwithstanding their assertions to the contrary, the  
13 Plaintiffs are most definitely seeking to unwind at least one  
14 half of the Court's order by belatedly claiming that they are  
15 entitled to the benefit of the bargain while leaving Highland  
16 burdened, frankly, with the claims that HarbourVest got as part  
17 of the deal. I will tell you, Your Honor, and this is  
18 argument, the debtor would never have asked for, and I don't  
19 believe that the Court would ever have granted, the 9019 motion  
20 if they thought that there was a risk in the future that  
21 Highland wouldn't get the benefit of the bargain and it was  
22 incumbent upon CLO Holdco and the DAF, and frankly, any party  
23 in interest, to stand up and be counted and tell the Court and  
24 the debtor, why the debtor was not entitled to do this deal and  
25 CLO Holdco did that. They actually did.



1           They stood up and they filed an objection and they  
2 said we have a superior right to this asset in the form of a  
3 right of first refusal. They wound up folding in the face of  
4 persuasive argument, and I respect the lawyer who did that. I  
5 just do. But that was the time to speak up, and that's why it  
6 is on the merits because that is exactly what *res judicata* is  
7 intended to do. It's intended to have everybody put your cards  
8 on the table. You don't put one card on the table and say, I'm  
9 going to challenge this under 6.2 of the members agreement, but  
10 I'm not going to tell you that I also think you owe me a  
11 fiduciary duty under the Advisors Act or as the control party  
12 or under any other theory that they had. They can't do that.  
13 That's exactly what the problem is here.

14           If we can go to the next slide. Is it a judgment on  
15 the merits? The debtor and the Court relied on CLO Holdco's  
16 representation that it was withdrawing its argument, its claim,  
17 its contention, its assertion that it had a superior right to  
18 obtain the HarbourVest interest in HCLOF. Again, they did so  
19 not whimsically, not because Mr. Kane was going to be out of  
20 town and he couldn't make the hearing. He did it after, and I  
21 don't think this matters frankly, but I think it's worth noting  
22 that he did it after an extremely careful analysis. I would  
23 tell you, Your Honor, that -- well, I would argue, Your Honor,  
24 that even if Mr. Kane at CLO Holdco had never filed an  
25 objection, if they'd never filed -- if they'd gotten notice

1 that this was happening and they sat silently, that would have  
2 been enough for *res judicata* because the issue before the Court  
3 was whether it was legally permissible for the debtor to  
4 acquire this asset.

5           And if they had an obligation, if they owed a duty to  
6 another party, it wouldn't have been legally permissible. And  
7 if somebody believed that it wasn't legally permissible because  
8 a duty was owed to them, they had an obligation to speak up.  
9 And so I think it's very important, particularly for the  
10 collateral estoppel argument that I'll make in a moment, that  
11 CLO Holdco did in fact file an objection. It was based on the  
12 breach of contract claim that's in their complaint. It's the  
13 exact same claim. And they withdrew it. I think it's very,  
14 very important. I think it highlights why *res judicata*  
15 applies. I think it is the linchpin of the collateral estoppel  
16 argument.

17           But at the end of the day, I think if they say  
18 nothing, they should be estopped or precluded under *res*  
19 *judicata* from now asserting -- it would be like -- I was  
20 thinking about this earlier, Your Honor. If you'll remember  
21 earlier this year, Mr. Dondero and his entities have kind of a  
22 habit of withdrawing objections at the last minute. We had a  
23 couple of sale hearings earlier this year. And the issue was  
24 valuation, you know, and the process, and could the debtor meet  
25 its burden of proving that the sale outside of the ordinary

1 course of business was in the debtor's best interest. And they  
2 sold that restaurant. And Mr. Dondero objected. And at the  
3 last second, they withdrew the objection. Did they sue  
4 tomorrow? Does Your Honor really think that they could bring a  
5 lawsuit tomorrow and say they just found a document or theory  
6 on which the debtor had an obligation to give them a right of  
7 first refusal, even though we've already closed on the  
8 transaction, even though they were given notice of the  
9 transaction, even though they filed an objection to the  
10 transaction, even though they withdrew the objection? Would  
11 the Court tolerate for one second a new pleading tomorrow from  
12 Mr. Dondero that the debtor actually had a fiduciary duty to  
13 give him a right of first refusal to buy that asset under  
14 whatever theory, just because he pleads it and the Court has to  
15 accept as true the allegations in the complaint? I think not.  
16 And I think it's worth thinking about that to highlight just  
17 how -- just how wrong this is.

18 Continuing on. You know, the Plaintiffs in  
19 opposition say it can't be a trial on the merits because we  
20 weren't parties. Of course they were parties. Again, they  
21 filed an objection. They were the parties to the contested  
22 matter, full stop. They rely on a case called Applewood and  
23 they say, this is the very first point they make in their  
24 brief. Applewood, if it wasn't *res judicata* in Applewood, how  
25 could it possibly be *res judicata* here? But the facts are just

1 so inapposite, right?

2           In Applewood, you had a garden variety plan and  
3 release where the debtor and the officers and directors got a  
4 discharge. No objection to it. And a secured lender later on  
5 sought to sue guarantors who happened to be officers and  
6 directors. And the court, not surprisingly, said that the  
7 confirmation order wouldn't prevent the secured lender from  
8 going after the officers and directors, not in their  
9 capacities, as such, but in their capacity as guarantors, which  
10 were never part of the confirmation order. That just doesn't  
11 apply here because here, we have the debtor making a motion  
12 before the Court in which it sought permission and authority to  
13 acquire a particular asset. Anybody who had a claim to that  
14 asset should have stepped forward and put their cards on the  
15 table.

16           And again, CLO Holdco put their cards on the table  
17 and they lost, and they folded. To use the poker analogy, they  
18 folded. And to hear them come into Court today and say we're  
19 going to sue you because I reshuffled the deck, it's not right  
20 and Applewood has no relevance.

21           Finally, Your Honor, you know, it's not on the  
22 merits, they say, because you know, Mr. Seery and the debtor  
23 hid the true value of the asset, and had we only known the true  
24 value of the asset, we would have made all of these other  
25 claims. The fact of the matter is, you either have a fiduciary

1 duty or you don't. And if you had a fiduciary duty, they  
2 should have spoken up and they did only under 6.2, but they  
3 did.

4 But here's the important part, Your Honor. Take the  
5 allegations as true. You have to take all of the allegations  
6 as true, not just some of them. And if you look at  
7 Paragraph 127 of the complaint, and I would ask Ms. Canty to go  
8 to Appendix 11 and let's just put Paragraph 127 up on the  
9 board.

10 Here's the irony of the whole thing, right. The  
11 whole complaint is based on the fact that somehow Mr. Seery was  
12 engaged in insider trading. They accused him of insider  
13 trading, and they say he didn't disclose the full value of the  
14 asset. Just read Paragraph 127. James Dondero, who was on the  
15 board of MGM, is the tippee. You've got an insider trading  
16 case -- I mean, I don't represent MGM. I'm not with the SEC.  
17 I don't know why Mr. Dondero thought he should be telling  
18 Mr. Seery in December, 2020. It's not clear if it was before  
19 or after the 9019 motion was filed. But Mr. Dondero is the  
20 very source of information -- you can't make this up. He's the  
21 very source of the information that he now complains Mr. Seery  
22 didn't disclose.

23 Of course, Mr. Dondero, the trust, CLO Holdco could  
24 have asked Mr. Seery at any time, how did you come up with your  
25 valuation? Mr. Dondero, knowing that he had supplied to

1 Mr. Seery, according to Paragraph 27, please take it as true  
2 for purposes of this motion only. He's the source of the  
3 inside information. And now he has the audacity to come to  
4 this Court, notwithstanding the Court's approval, all of the  
5 time and money and effort spent in the 9019 process, and say,  
6 Mr. Seery was wrong because he didn't tell CLO Holdco and the  
7 DAF about the information that Mr. Dondero gave to Mr. Seery.  
8 It's not right.

9           It was a judgment on the merits. And if Mr. Dondero  
10 or the DAF or CLO Holdco or the trust wanted to challenge the  
11 valuation, they had every opportunity to do so. And based on  
12 Paragraph 127, if the Court accepts it as true, shame on them.  
13 Shame on them for not pursuing this issue before. The guy gave  
14 Mr. Seery, according to this allegation, and I'm just going to  
15 leave it there, inside information. And he sits there in  
16 silence, right? It says, look at the last sentence: "The news  
17 of the MGM purchase should have caused Seery to revalue HCLOF's  
18 investment." Seriously?

19           The third element is (indiscernible). The fourth  
20 element, if we can go to the next slide.

21           Are they the same claims? Did the claims arise from  
22 the same set of operative facts? I've addressed this pretty  
23 clearly already, so I don't want to belabor the point. But  
24 obviously, both the 9019 motion and the complaint arise solely  
25 from the debtor's settlement with HarbourVest. The debtor's

1 acquisition of HarbourVest's interest in HCLOF and the debtor's  
2 valuation of that interest. Without those three facts, there  
3 is no complaint. It's just not credible to argue that the  
4 fourth element is not met.

5 The case law is clear. It's quoted in the  
6 Plaintiffs' opposition. It's not just the test of whether the  
7 claims are the same. It's whether the claim is the same as  
8 that which was brought or could have been brought.

9 In their opposition, the Plaintiffs contend that the  
10 claims "did not write them until after the settlement was  
11 consummated," and that the first time the plaintiffs heard  
12 about the valuation of HarbourVest's interests was at the  
13 January 14, 2021, hearing. I think I quoted that. If you  
14 look, I don't know if it's Page 10 or Paragraph 10; the way I  
15 wrote it, it's probably Page 10. I think that's a quote right  
16 out of there. But of course, as we saw the debtor disclosed  
17 the valuation in its very initial motion, CLO Holdco's counsel  
18 elicited valuation testimony directly from Mr. Pugatch, so that  
19 was before the hearing.

20 And of course, Mr. Dondero and the trusts both cited  
21 in their objections the valuation. The notion that this was  
22 not right, just -- it's contradicted by their own conduct,  
23 their objections, their questions in deposition, the  
24 information that was contained in the motion that they objected  
25 to.



1 I do want to go off-script for just a minute, if we  
2 could just take that down because I know that this is probably  
3 something that Mr. Sbaiti may argue. And that is, well, gee,  
4 but you have to take the allegation as true that Mr. Seery  
5 wasn't honest, that Mr. Seery lied to the court. I don't  
6 understand why there's not a fraud cause of action in there,  
7 but there's not. But that's their theory.

8 And gee, how does he get to skate away Scott free if  
9 he's allowed to do that with impunity, right? I will tell you,  
10 Your Honor, of course you've seen Mr. Seery many times. You've  
11 made your own assessments of his credibility. I'm not here to  
12 argue the merits, but I will just say that the Defendants, if  
13 ever forced to, will contest the allegation.

14 But here's the thing, and here's the important point  
15 about, you know, whether or not he could lie with impunity and  
16 say, I suspect that's where Mr. Sbaiti is going to want to go.

17 Mr. Seery said what he said. And he had a reason to  
18 speak, and he spoke, and he said what he said and he told  
19 everybody who would listen exactly what he was doing and how he  
20 was doing it. For whatever reason, the objectors put the  
21 valuation front and center. It's right in their objections.  
22 They noted the objections. But for whatever reason, they did  
23 nothing.

24 Whether they were negligent or whether they were  
25 lying in wait is kind of irrelevant. They had a full and fair

1 opportunity to contest this issue. And if they had done so,  
2 and the evidence proved what they're now alleging, they can't  
3 tell you what would have happened. So, you know, HarbourVest  
4 may have taken a different position. The Court may have done  
5 something.

6           We're never going to know now because Mr. Seery and  
7 the debtor are getting away with something, but because they  
8 put in evidence that went unchallenged by Mr. Dondero and the  
9 Plaintiffs. It simply went unchallenged. And they say, oh,  
10 gee, that's because we didn't know. Well first of all, you  
11 didn't ask. And second of all, again, the source of the inside  
12 information, the reason that Mr. Seery should have known the  
13 asset was worth more. The reason that he should have refrained  
14 from trading and not engaged in insider information was  
15 Paragraph 127. It was Mr. Dondero.

16           Here's another thing. If -- if again Mr. Seery had  
17 not been honest with the Court and that was ever brought out,  
18 Maybe HarbourVest -- maybe HarbourVest would have had a right  
19 to complain. There's a lot in the complaint about oh,  
20 HarbourVest was misled. The actual evidence that's in the  
21 record, and this is part of res judicata, Mr. Seery testified  
22 very clearly to the arm's length negotiation that took place.  
23 He told the Court under oath that the negotiations were  
24 contentious.

25           He told the Court under oath that in order to try to

1 resolve the case, he and Mr. Pugatch went off and had their own  
2 private conversation without lawyers. They could have taken  
3 discovery on any of that, right. What did you guys talk about?  
4 It's certainly not privileged. They had every opportunity.  
5 But what we do know is that Mr. Pugatch under oath, in  
6 deposition, and at trial, said the value is \$22.5 million.

7           So I don't think Mr. Pugatch or HarbourVest is ever,  
8 ever, every going to complain about the transaction they did.  
9 Because of what the evidence simply shows. But again, you've  
10 got the Plaintiffs in their complaint saying that somehow the  
11 debtor and Mr. Seery in negotiating this transaction has now  
12 exposed the debtor to liability. It just makes no sense.

13           So there was a time and there was a place to  
14 challenge Mr. Seery. Somebody, you know, maybe HarbourVest  
15 could have done something, maybe they could still do something.  
16 I don't know. If they really think that there's a problem,  
17 maybe we'll hear from HarbourVest someday. But the Plaintiffs  
18 have no right to complain. They just don't. They knew  
19 everything. They were the source of the inside information.  
20 They sat on their hands, and they shouldn't be allowed to do  
21 what they're doing now.

22           If we can go to the next slide. I want to move to  
23 the next theory and try to finish this up. The next theory is  
24 that the Plaintiffs' claims are barred by judicial estoppel.  
25 The judicial estoppel argument is really, really very

1 straight-forward. And it's important because if the Court  
2 thinks about this the way I do, it's that the whole issue of  
3 valuation is completely irrelevant to the Plaintiffs unless  
4 they can show that they were owed some kind of duty, that they  
5 had some superior right to acquire the asset. But that's  
6 exactly the issue that CLO Holdco relied upon and withdrew and  
7 should now be estopped from pursuing. Right.

8           The legal standard, again the parties agree on, that  
9 in order to be estopped, the party must take an inconsistent  
10 position. And the party must have convinced the Court to  
11 accept that position. Again, both prongs are easily met here  
12 in just a few sentences from the January 14 hearing. You have  
13 Mr. Kane saying that he understands and acknowledges and admits  
14 that they have no superior right to the investment. And the  
15 Court relying on that very representation in declining to  
16 conduct a hearing and render a ruling on the merits of the  
17 claim that was withdrawn. The objection that was withdrawn.

18           And for the avoidance of doubt, after Mr. Draper  
19 spoke on behalf of the Trust, the Court, at Page 22 engaged in  
20 the following colloquy. The Court asked Mr. Draper:

21           "THE COURT: Were you saying that the Court still  
22 needs to drill down on the issue of whether the  
23 debtor can acquire HarbourVest's interest in HCLOF.

24           "MR. DRAPER: No.

25           "THE COURT: Okay. I was confused whether you were

1 saying I needed to take an independent look of that.

2 Now that the objection has been withdrawn of CLO

3 Holdco, you're not pressing the issue.

4 "MR. DRAPER: No. I am not."

5 Okay. You can call it res judicata, you can call it  
6 judicial estoppel, collateral estoppel, the two prongs are  
7 easily met. They're taking an inconsistent position today and  
8 through all kinds of different theories, including the one that  
9 they withdrew, the Plaintiffs assert that they had a superior  
10 right to acquire the interest from HarbourVest.

11 And they should have asserted those rights at the  
12 hearing. That was the time. And they should be estopped now  
13 from taking a completely inconsistent position from the one  
14 that was before the Court. And I just do want to point out,  
15 the statement from a case called Hall vs. G.E. Plastic. And  
16 it's interesting, Your Honor, because there's only a few cases  
17 that I focused on, because this is really more fact intensive.  
18 And there isn't a dispute as to the, you know, the elements of  
19 these matters.

20 But it is interesting that the Plaintiffs, you know,  
21 generally ignore all of the cases that we cite to. One which  
22 is Hall vs. G.E. Plastic, where the Court said that the focus  
23 on the prior success or judicial acceptance requirements is to  
24 minimize the degree of a party contradicting a Court's  
25 determination, based on a party's prior position. That's the

1 whole point of the exercise. You can't do this. You can't do  
2 this.

3 Just quickly, that leaves the individual arguments as to  
4 each of the five causes of action and I just want to go through  
5 some highlights. There's a negligence claim, Your Honor. And  
6 we did not file a pleading, but the Court can certainly take  
7 judicial notice of the fact that the effective date has  
8 occurred. Under the effective date, the plan is now effective.  
9 That includes the exculpation clause, as Mr. Pomerantz, I think  
10 accurately and without contradiction pointed out earlier, the  
11 exculpation clause applies specifically to the debtor and to  
12 negligence claims. And that's not a matter that's at all  
13 subject to appeal.

14 So I think just to add to the arguments that we have  
15 in our papers, which I adopt and do not abandon for any  
16 purpose, I would add to the argument on negligence, that it's  
17 now precluded, as a result of the plan becoming effective.

18 The fiduciary duty count suffers from numerous defects. I  
19 just want to point out a couple of them. They don't respond to  
20 the argument under Corwin, that under the Advisor's Act, there  
21 is no private right of action to sue for damages arising from a  
22 breach of fiduciary duty. This claim rears its head in  
23 virtually every single complaint. They've never addressed  
24 Corwin. Corwin is binding on this Court, and it is unambiguous  
25 that there is no private right of action to sue for damages for

1 breach of fiduciary duty under the Advisor's Act.

2           They ignore Goldstein. Goldstein is not from the  
3 Fifth Circuit, but it's very persuasive authority that advisors  
4 do not owe fiduciary duties to their individual investors.  
5 Instead, they owe fiduciary duty to their client. Their client  
6 is the entity with whom they're in contractual privity. And so  
7 in this case, there's no fiduciary duty there, either.

8           The breach of contract claim. Again I just -- I  
9 would just say quickly, Your Honor, it's barred under judicial  
10 estoppel. Even if it wasn't, it's clear based on Mr. James'  
11 analysis and admission that the debtor's, or the reorganized  
12 debtor's interpretation of 6.2 is accurate. And you know, I  
13 said this in the beginning. Now let me tie it in a bow because  
14 the breach of contract claim, and the tortuous interference  
15 claim are both tied to the same thing. And that is the  
16 assertion that the Plaintiffs had a right under the membership  
17 agreement, a right of first refusal.

18           And they basically say that the debtor was playing  
19 games. That they shouldn't be able to get through 6.2 by  
20 assigning it to an affiliate. And that's where I go back, Your  
21 Honor, and just remind the Court that the debtor told the whole  
22 world exactly what they were doing in their motion. And their  
23 objections, Mr. Dondero and the Trusts both acknowledge to the  
24 whole world that they understood exactly what was happening.

25           In fact, their concern was not that it was going to



1 the debtor, but that it might be going to an affiliate outside  
2 of the bankruptcy court's jurisdiction. And for them to now  
3 say, having taken all of those positions -- talk about  
4 inconsistent positions. They should be barred from saying  
5 today, that the use of an affiliate to effectuate the  
6 transaction was wrongful, because they actually told the Court  
7 that they needed to -- that the Court needed to make sure that  
8 it had jurisdiction over the very entity they now say somehow  
9 shouldn't have been allowed to get the asset.

10           It's a bit much. So that takes care of the tortuous  
11 interference.

12           The RICO claim, Your Honor, again is a motion.  
13 There's so many different aspects to it. But I don't think the  
14 Court needs to get past the Supreme Court holdings in HJ, Inc.  
15 Again, just simply ignored by the Plaintiffs in their  
16 opposition to the motion to dismiss. In HJ, Inc., the Court --  
17 the Supreme Court did an exhaustive analysis to try to  
18 determine and ultimately did determine, what a pattern of  
19 racketeering activity meant. And the Supreme Court came to the  
20 following formulation. That it had to have two or more  
21 predicate related offenses that amounted to a threat of  
22 continued criminal activities.

23           You know, the notion here is that the debtor and Mr.  
24 Seery engaged in insider trading. We've already -- I've  
25 already mentioned that according to the complaint, which the

1 Court can take as true. Mr. Dondero, himself, was the tippee.  
2 But be that as it may, they don't come close to meeting the  
3 very high standards set forth by the Supreme Court in HJ, Inc.  
4 to show that whatever conduct Mr. Seery and the debtor engaged  
5 in, and if you take the allegations as true, in not telling  
6 what the fair value of the asset was, that that doesn't amount  
7 to a hill of beans for purposes of RICO. That you don't have  
8 any, I think predicate acts. I think here's the Court,  
9 predicate acts extending over a few weeks or months,  
10 threatening no future criminal conduct, do not meet RICO  
11 pleading grounds. Right.

12 Security fraud claims cannot be predicate acts for  
13 purposes of RICO. That is also clear. And that is really, I  
14 mean they say mail, wire and fraud. But what's really at heart  
15 is the 10(b)(5). Okay, it's the 10(b)(5) claim. Again, Mr.  
16 Seery being -- I mean Mr. Dondero being the tippee. But those  
17 are just some of the reasons.

18 None of, you know, that the RICO claim fails. You  
19 know, I'll otherwise rely on the papers, unless the Court has  
20 specific questions as to any of the other pieces of the motion  
21 to dismiss the RICO claim, or any other aspect of the  
22 Defendants' motion. I think this is clear. I think we win, no  
23 matter how you slice it. It's just wrong. It's just wrong.

24 This Court will never, ever have a final order if Mr.  
25 Dondero is able to engineer complaints such as this, which seek

1 to assert claims that absolutely positively could have and  
2 should have been brought at the time the debtor made its  
3 motion.

4 Unless the Court has any questions, I have nothing  
5 further.

6 THE COURT: I do not. All right.

7 Mr. Sbaiti, I'm going to let you have as much time as  
8 Mr. Morris. He took 55 minutes. As I mentioned, I have a hard  
9 stop at 12:00 to do a swearing in ceremony. So if you're not  
10 finished in 40 minutes, then I'm going to have to take a break  
11 and come back and let you finish. All right?

12 MR. SBAITI: Thank you, Your Honor. Although I don't  
13 think I'm going to be much longer than 35-ish minutes.

14 THE COURT: Okay.

15 MR. SBAITI: if not less.

16 THE COURT: Okay.

17 MR. SBAITI: I think you'll be able to be done by --  
18 we'll be able to be done by noon.

19 THE COURT: All right. Thank you.

20 MR. SBAITI: Thank you, Your Honor. Your Honor, may I  
21 share my screen?

22 THE COURT: You may.

23 MR. SBAITI: Thank you, Your Honor. Do you see my  
24 Power Point, Your Honor?

25 THE COURT: I do.

1 MR. SBAITI: Thank you, Your Honor. I don't know  
2 what which one you see. Is it the --

3 THE COURT: I see presentation.

4 MR. SBAITI: With the full page?

5 THE COURT: Yes, uh-huh.

6 MR. SBAITI: Okay, yeah, great. I just want to make  
7 sure we're on the right page. Thank you, Your Honor. So Your  
8 Honor, the defendant debtor is a registered investment advisor.  
9 And it all begins with that. And this where the distinctions  
10 between what happened in the 9019 and I'll get to the elements  
11 of res judicata through argument.

12 But the first thing that has to be identified is that  
13 the Defendant is a registered investment advisor. The  
14 objection filed by Holdco back during the 9019 was an objection  
15 against HarbourVest selling its interest by filing the right of  
16 first refusal. It did not deal with the investment advisor  
17 feature of Highland's relationship. And I'll get to why the  
18 9019 doesn't preclude these arguments today.

19 This is essentially the structure. Highland was the  
20 investment advisor of HCLOF, and Holdco is an investor in  
21 HCLOF. And so Highland would owe a fiduciary duty under the  
22 Advisor's Act against -- to CLO Holdco.

23 Highland also had a direct advisor relationship with  
24 the DAF. And so under the Investment Advisor's Act, it owed  
25 fiduciary duties to both of those entities. The law governing

1 registered investment advisors is that it's a federally  
2 recognized and defined fiduciary duties. The fiduciary duty to  
3 there's a fiduciary duty to affirmatively keep the advisee  
4 informed and the fiduciary duty not to self-deal, i.e., not to  
5 trade ahead of an advisee and opportunity that an advisee would  
6 want or expect and without the advisee's expressed informed  
7 consent.

8           This is a federally recognized and defined fiduciary  
9 duty and it's actionable under state fiduciary duty laws.  
10 While Mr. Morris ended his argument by saying we didn't deal  
11 with their case law saying that there's no private right of  
12 action under the Advisor's Act, the fact of the matter is that  
13 Judge Boyle, about ten years ago, found that a state -- the  
14 breach of fiduciary duty claim can be predicated on breaches of  
15 federally imposed fiduciary duties under the Advisor's Act.  
16 And that's what Douglass v. Beakley held. And that's actually  
17 what we cited in our response. So I'm not sure why he would  
18 argue that we haven't addressed the issue of where does this  
19 private right of action come from.

20           Federal Law supplies the rules of the relationship  
21 and State Law provides the cause of action for those breaches.  
22 Now the scope of that has been expounded upon by many cases.  
23 The Fifth Circuit held in Laird, as a fiduciary, the standard  
24 of care to which an investment advisor must adhere imposes an  
25 affirmative duty of utmost good faith and full and fair

1 disclosure to all material facts, as well as an affirmative  
2 obligation to employ reasonable care to avoid misleading his  
3 clients.

4           The word "affirmative" there is important because it  
5 means the investment advisor is not supposed to wait to be  
6 asked. The investment advisor as an affirmative duty to  
7 proactively provide the information to the client.

8           The next standard comes from the SEC. We call it the  
9 SEC interpretation letter. It's a release that came out in  
10 2019. And to meet it's duty of loyalty, an advisor must make  
11 full and fair disclosure to its clients of all material facts  
12 relating to the advisor relationship. Material facts relating  
13 to the advisor relationship include the capacity at which the  
14 firm is acting with respect to the advice provided.

15           The SEC had another release in 2000 -- or excuse me,  
16 in that same release, the SEC said the duty of loyalty requires  
17 that an advisor not subordinate its clients interests to its  
18 own. In other word, an investment advisor must not place its  
19 own interest ahead of its clients' interests. An advisor has a  
20 duty to act in the client's best interest, not its own.

21           The SEC general instruction three to part 2 of Form  
22 ADV, that every investment advisor has to pull out. And this  
23 is cited in our papers. As a fiduciary, you must also seek to  
24 avoid conflicts of interest with your clients, and at a  
25 minimum, make full disclosure of all material conflicts of

1 interest between you and your clients that could affect the  
2 advisor relationship. This obligation requires that you provide  
3 the client with sufficiently specific facts, so that the client  
4 is able to understand the conflicts of interest you have, and  
5 the business practices in which you engage, and can give  
6 informed consent to such conflicts or practices or reject them.

7 And, finally, the Third Circuit in Belmont said:

8 "Under the best interest test, an advisor may benefit  
9 from a transaction recommended to a client if, and  
10 only if, that benefit, and all related details of the  
11 transaction are fully disclosed."

12 These fiduciary duties are unwaivable by the advisor.  
13 Any condition, stipulation or provision binding any person to  
14 waive compliance with any provision of this subchapter, or with  
15 any rule, regulation or order thereunder shall be void.

16 So the lawsuit does not allege that the HarbourVest  
17 settlement should be undone or unwound. I'd like to move to  
18 that point. Mr. Morris says well, you have to unwind half of  
19 the settlement. Maybe HarbourVest doesn't have to give back  
20 what it got, but Highland would still be saddled with the cost  
21 of the settlement, but not with the benefit of the settlement.

22 Well, actually that's not true. There's two points  
23 that we would make on that. Number one, our suit is a suit for  
24 damages. In other words, the suit would be a suit for money  
25 damages, based on the difference between the value of the asset



1 and what HarbourVest or what the actual value of the asset that  
2 was represented, \$22.5 million. So the second point, though,  
3 is that even under a situation where CLO or Holdco or the DAF,  
4 or even HCLOF were to purchase the HarbourVest suit, the  
5 expectation would obviously be that they'd pay the \$22.5  
6 million that Highland paid for it.

7           So Highland is -- so it's not unwinding, and there's  
8 no saddling Highland with a burden that they didn't otherwise  
9 have, I think that's a misrepresentation. But we're not  
10 seeking to unwind the lawsuit -- or excuse me, unwind the  
11 settlement.

12           Now Mr. Morris is correct, the representation of  
13 value by Mr. Seery is -- is one of the main points here. And  
14 the representation was that the value of the entire asset. Not  
15 just the shares of MGM, but the value of the entire asset was  
16 \$22.5 million. So in other word, nearly half of HCLOF was  
17 represented to be worth \$22.5 million. It was argued by  
18 counsel on Page 14 of the January 14th transcript, and then on  
19 Page 112 of that transcript, Mr. Seery specifically says the  
20 current value is right around \$22.5 million.

21           Now that was also in some of the filing papers and  
22 Mr. Morris put up the evidence to Your Honor that Mr. Pugatch,  
23 on behalf of HarbourVest also parroted that number. But  
24 there's not any evidence today about where that number came  
25 from, or whether he was simply relying on Highland's

1 representation of that value.

2 Now as a general rule, in these 12(B)(6) motions, as  
3 I said before, we don't look at the evidence because the whole  
4 point of discovery is to find out what's behind a lot of the  
5 evidence. That's been quoted. The amount of evidence that  
6 went into the 9019 motion as not necessarily full-blown  
7 discovery.

8 I understand Mr. Morris saying well, they could have  
9 asked the question. But as I just showed you, they shouldn't  
10 have to ask the question. There should be fair and full  
11 disclosure of all the material facts. And if it turns out,  
12 which we believe it is true, that by January, the value of  
13 HCLOF was twice what it was represented, or the HarbourVest  
14 portion of HCLOF was twice as to what it was represented,  
15 that's a material omission that Highland had an affirmative  
16 duty to not misrepresent. Irrespective of the questions being  
17 asked.

18 The DAF found out later on that the representation of  
19 the value wasn't true. Now Mr. Morris talked for a very long  
20 time about all the opportunities that somebody, Mr. Dondero,  
21 somebody other than CLO Holdco. In addition to CLO Holdco,  
22 could have asked the magic question to find out whether or not  
23 they were telling the truth. But that runs right in the face  
24 of the standards set forth by the SEC and by the Courts as to  
25 the affirmative obligation of an advisor to disclose all the

1 material benefits that they're going to get as part of a trade.  
2 The idea being that when you're a registered investment advisor  
3 and you want to engage in a transaction, you make a full  
4 disclosure and say this is the transaction. It's worth 41, but  
5 I'm paying 22-1/2. But here's why I'd like to be able to do  
6 it. And then that's the discussion that happens.

7           That clearly didn't happen here. And when it turned  
8 out that there was this entirely huge upside that they were  
9 gaining the benefit of, and maybe HarbourVest didn't care, that  
10 that was a false statement. Now the reason we don't have a  
11 common law fraud claim, or that we don't necessarily hang our  
12 hat on a fraud claim is we don't have enough evidence as it  
13 stands today, to specifically say that Mr. Seery intentionally  
14 misrepresented that. Although we believe that it was grossly  
15 reckless of him to do so. But we don't really need a fraud  
16 claim with a gross recklessness standard. We have a breach of  
17 fiduciary duty, which basically gets us to the same place.

18           So the timeline we have is September 30th was the  
19 last valuation of HCLOF assets provided by HCMLP. And the  
20 value of HCLOF, at that time, or the HarbourVest of that value,  
21 would have been about 22.5 million. So what it appears to be  
22 is that in January or in late December, the valuation that was  
23 being done -- what was being reported, wasn't the current  
24 valuation. It was the valuation as of the end of the third  
25 quarter of 2020.

1           On December 22nd, the motion to approve the  
2 settlement with HarbourVest was filed. HCMLP should have had  
3 or would have had up-to-date valuations of the HCLOF assets,  
4 but didn't necessarily disclose them as being different than  
5 the 22.5 million. On January the 14th, Your Honor, held the  
6 9019 hearing. And then that same day, Your Honor entered the  
7 approval order.

8           And finally, in March, the DAF learns the true value  
9 of HLOF assets as of January 2021 and starts to look into it.  
10 Now Mr. Morris makes much of the fact that well, Mr. Dondero at  
11 least knew that he had tipped them off, Mr. Seery. And if you  
12 actually read Paragraph 127, you'll see specifically what it's  
13 purported that he said. He said stop trading in the MGM  
14 assets, because MGM might be in play. So you can't trade  
15 because I'm an advisor, Mr. Dondero's an insider, he's the  
16 tipper, not the tippee. Mr. Seery becomes the tippee under  
17 that theory of the case, and he has to, and is required to,  
18 because of their affiliation at the time, he's required to  
19 cease trading. And that was the purpose of saying that.

20           The collateral issue that we point is that he at the  
21 very least knew about that, and that should have caused him to  
22 revalue, if he hadn't done so at the time. Not that, knowing  
23 that alone is sufficient to know what the value of HCLOF  
24 actually was on that date. That's a complete misrepresentation  
25 of the point and purpose of that allegation.

1           And as Your Honor knows, under 12(B)(6)  
2 jurisprudence, the way this is supposed to go is we get the  
3 benefit of every inference based upon the allegations, not the  
4 movant. So the first violation is that the debtor as an IRA  
5 failed to affirmatively disclose the true current valuation of  
6 HCLOF and failed to keep the DAF and CLO Holdco reasonably  
7 informed of the value of the assets.

8           And the debtor as an IRA, failed to obtain CLO  
9 Holdco's with the DAF's informed consent before it traded in  
10 the asset, because it didn't have all of the information. The  
11 typical remedy for breach of fiduciary duty is typically  
12 damages for any loss suffered by the Plaintiff as a result of  
13 the breach. I don't think there's a debate there.

14           So now we get to Mr. Morris' key argument. His key  
15 argument is that we should be talking about res judicata. The  
16 elements of res judicata and I think we agree is you have to  
17 have identical parties in the action; the prior judgment was  
18 rendered by a Court of competent jurisdiction; the final  
19 judgment was final on the merits, and the cases involved the  
20 same causes of action or the same transaction and nexus of  
21 facts.

22           Now I'm going to skip to three, because I think  
23 that's one of the key points that we disagree with them on.  
24 There is no case, Your Honor, that we could find, and no case  
25 that I read them citing that says an order on an 9019 has

1 preclusive effect under res judicata under an objector to the  
2 settlement. We looked. We looked in the Fifth Circuit. We  
3 looked outside of the Fifth Circuit. No District Court, no  
4 Fifth Circuit Court of Appeals' opinion we could find held that  
5 a 9019 order has res judicata effect on an objector's  
6 objection. And I think the reason is pretty simple. Is it  
7 doesn't.

8           Because the Plaintiff's claims, here our claims  
9 hadn't even accrued. We have a four year statute of  
10 limitations, but I think more importantly is that, as the Fifth  
11 Circuit said, the 9019 motion grants the Court discretion.  
12 It's not supposed to be a mini trial. The Court can approve a  
13 settlement over even the valid objection of an objector. It's  
14 not a trial on the merits. It's not supposed to be a trial on  
15 the merits. It's not supposed to be a disposition on the  
16 merits.

17           So the fact that Your Honor could have approved the  
18 9019 settlement with HarbourVest, even if we had a valid  
19 objection, means this isn't a disposition on the merits, as res  
20 judicata would envision. It wasn't a trial on the merits, even  
21 though it was withdrawn.

22           The other elements that we would point out to is that  
23 neither the DAV nor Holdco were parties to the dispute between  
24 HarbourVest and Highland. And this keys off of the issue that  
25 I just raised. The cases that are cited by the debtor to Your

1 Honor all have to do with where one of the settling parties is  
2 trying to undo the settlement for some collateral reason. And  
3 the Courts have held, no, that's res judicata, because you were  
4 a party to the action. HarbourVest brought the claims against  
5 Highland. Highland settled those claims.

6 CLO Holdco was collateral to that settlement, it's  
7 not a -- excuse me, collateral to that dispute. It's not a  
8 party to that dispute. Its claims weren't being resolved by  
9 the settlement. And while you have a notice to all creditors  
10 and those objections can be raised, there was not inherently  
11 any manner for resolving those objections on their own merits.  
12 Only -- it was only resolved in so far as deciding whether or  
13 not the settlement was in the best interest of the debtor,  
14 which Your Honor decided, and we don't challenge that. But we  
15 do argue that it caused damages and the debtor shouldn't get  
16 off for those damages.

17 The fourth element is that the --

18 THE COURT: Just for the record, the standard in a  
19 9019 context is not best interest of the debtor, right?

20 MR. SBAITI: Your Honor, I mean that's what the rule  
21 says and Your Honor's order --

22 THE COURT: That is not what the rule says. The rule  
23 is actually very sparsely worded and then we have Fifth Circuit  
24 case law and U.S. Supreme Court law that talk about what the  
25 standard is.



1 MR. SBAITI: Yes, Your Honor. And there are five --

2 THE COURT: And it's -- is it fair?

3 MR. SBAITI: There are five elements.

4 THE COURT: Is it fair and equitable and in the best  
5 interest of the estate given a long list --

6 MR. SBAITI: Correct, Your Honor. And I didn't mean  
7 to --

8 THE COURT: -- of considerations that the Court is  
9 supposed to consider that "bear on the wisdom of the  
10 settlement." Okay. So it's actually much more involved, is my  
11 point, than is it in the best interest of the estate. Is it in  
12 the best interest of the estate and fair and equitable given  
13 all factors bearing on the wisdom of the compromise? And then  
14 we have a long laundry list of things the Court should consider  
15 as part of that analysis.

16 MR. SBAITI: That's a --

17 THE COURT: I just bring that up because if I'm still  
18 -- my brain is still stuck five minutes ago on your comment  
19 that you can't find any case saying that an order approving a  
20 9019 compromise has res judicata effect on creditors. And it's  
21 -- let me just say it's shocking to me that someone would argue  
22 otherwise. Bankruptcy is a collective proceeding --

23 MR. SBAITI: Your Honor --

24 THE COURT: -- where creditors can weigh in and  
25 object and raise whatever arguments they think the Court should

1 consider that bear on the wisdom of the compromise. And the  
2 Fifth Circuit in Foster Mortgage has said the Court should give  
3 great deference to the views of the creditors, the paramount  
4 interest of creditors.

5 So it's a really sort of shocking proposition that  
6 the order approving a 9019 compromise wouldn't have res  
7 judicata effect on all parties and interests who got notice of  
8 that. So if you have any elaboration on that, I'd like to hear  
9 it.

10 MR. SBAITI: Your Honor, we looked at the Fifth  
11 Circuit cases that they cited, which I believe included that  
12 case. And even in that case, the point that we made in our  
13 papers and the point I was trying to arrive at is that among  
14 the factors, yes, the Court should give great deference to the  
15 creditors. But among the factors is not that the objections  
16 lack merit or are meritless or that they wouldn't be winnable  
17 if they were simply standalone claims.

18 And that was really the only point I was trying to  
19 make is that Your Honor has discretion. Granted it's -- as you  
20 mentioned, it's not unfettered discretion. It's bounded by  
21 standards and there are -- there is, I know, about five  
22 standards Your Honor has to consider or the Court has to  
23 consider. But among those, that laundry list of standards, is  
24 not that the Court finds that any objection lacks merit. And  
25 that was really the only point I was making.

1           And in terms of the case law, we looked at the Fifth  
2 Circuit. We looked, frankly, outside the Fifth Circuit as much  
3 as we could, and because this is actually not an easy one to  
4 research, as it turned out, despite the language. And we also  
5 looked for district court opinions in the Fifth Circuit to see  
6 did any district court or did any court of appeals give this  
7 type of approval to the standard that a 9019 order has res  
8 judicata effect on a claim raised in an objection by a  
9 creditor.

10           And we couldn't find any and I read all the cases  
11 that Mr. Morris cited in his papers, and they didn't cite one  
12 that explicitly said that. They tried to drive at it through  
13 insinuation that, well, if the Court has to give great  
14 deference or if the Court has to take into account the  
15 underlying facts and the fact that there is discovery, surely  
16 that must mean this is akin to the trial on the merits. And I  
17 think that's where we simply disagree in good faith. I'm not  
18 ascribing any bad intention. But we disagree that that's where  
19 the law goes.

20           Res judicata is not -- while it's supposed to stop  
21 the relitigation of issues, it is predicated on there having  
22 been actual litigation of those issues. And when HarbourVest  
23 and Highland settle a case and my clients show up with an  
24 objection, even though they withdraw an objection, that, in our  
25 opinion -- and we're asking the Court to see it our way -- is

1 not trial on the merits. It's not a disposition on the merits  
2 of the objection in and of itself. Some objections we can --

3 THE COURT: But the context matters. In the context  
4 of a 9019 compromise, the hearing is about look at the bonafide  
5 ease of the settlement. And it's either fair and equitable and  
6 in the best interest of the estate or not. And an objector can  
7 say this is a terrible settlement and here's why it's a  
8 terrible settlement and let me cross-examine the movant and let  
9 me put on my own witness that will enlighten the Court as to  
10 why this is a terrible settlement, why I say terrible, why it's  
11 not fair and equitable.

12 That's your chance to convince the Court, don't  
13 approve this settlement because there are, you know, 14  
14 problems with it. And if you convince the Court, then you  
15 convince the Court and it's not approved. If you don't, you  
16 appeal, and we do have an appeal of the settlement order.

17 So, again, I'm not understanding the "res judicata  
18 doesn't apply" argument.

19 MR. SBAITI: Your Honor, if I could riff on two  
20 points based upon what you just said, if I could address those.

21 The first is there are clearly two kinds of  
22 objections that get -- at least two kinds of objections that  
23 get raised in these 9019 approval hearings. The two that you  
24 heard recounted, some were this is bad for the estate. There's  
25 reasons why we don't think the estate will benefit from it and

1 it will be harmed from it.

2           And those types of objections, which I believe mostly  
3 comprise the objections that Mr. Morris was talking about  
4 because they are concerns for the estate. And so creditors who  
5 want to get money from the estate are concerned that the  
6 settlement will not enter (phonetic) to the benefit of the  
7 estate, and therefore, not enter to their benefit as creditors.  
8 That's number one.

9           But those don't adhere in a lawsuit. Those aren't  
10 claims for damages that the settlement is going to create for  
11 the person objection or for the party objecting. There's a  
12 whole separate set of objections similar to the ones HCLLO  
13 Holdco raised where that what inheres in the objection is this  
14 is actually going to cause us some kind of damage.

15           And so, the factors though, don't require the Court  
16 in those second set of instances to say, well, you know what?  
17 Not only do I think you're wrong, but I think that your  
18 lawsuit, the underlying causes of action that give rise to this  
19 objection, have no merit on their own face, that the discovery  
20 is not there to support them, that a jury is not going to find  
21 there. I am now the trier or the Court is now the trier of  
22 fact on the merits of the underlying causes of action that  
23 animate the objection.

24           And that's where I believe we're diverging with the  
25 debtor on the law. It goes too far to say that a 9019 hearing

1 where the Court in the end has discretion to approve it, even  
2 over a meritorious objection by any party, regardless of what  
3 bucket of objections the objection falls into. It goes -- our  
4 argument today, Your Honor, and we're asking the Court to see  
5 it our way, is that that would go too far. That an actual  
6 cause of action shouldn't be eradicated simply because of the  
7 9019 process because, as you pointed out, the Court does have  
8 to go through a litany of factors.

9           And if the Court determines that it's fair and it's  
10 more equitable to overrule the objection, the Court has that  
11 discretion. And we're not here to unwind that discretion.

12           But the settlement process did violate certain  
13 obligations and did cause my client damages. And that's what  
14 we're saying isn't precluded.

15           THE COURT: Okay.

16           MR. SBAITI: The fourth element, Your Honor, which I  
17 guess in many ways maps on to the argument I just made to Your  
18 Honor is that the cases, the underlying cases, do not involve  
19 the same claims. Plaintiffs' claims arise from the settlement  
20 process itself and not from the underlying issues being settled  
21 between HarbourVest and Highland. So that's why we think at  
22 least three of the four elements aren't met here. And we'll  
23 reserve on the papers, you know, whether jurisdiction was  
24 applicable because I think that's probably water under the  
25 bridge at this point in the oral argument.

1 Now, Mr. Morris attacks the case that we cite,  
2 Applewood Chair vs. Three Rivers Planning. And he argues that,  
3 well, this is not applicable. And the argument he made however  
4 was he put it in the context of, well, the parties there, the  
5 issue was you had guarantors who were not parties in their  
6 capacity as guarantors. But that's not actually what the Court  
7 held.

8 The Court didn't say that the release wasn't  
9 applicable to them because they didn't appear as parties in  
10 their guarantee capacities. They -- the Court held that, well,  
11 the specific discharge language doesn't enumerate those  
12 specific guarantees, and so therefore it's not released.

13 And where this dovetails, we believe, as closely as  
14 we can, this isn't a 9019 case. This is a final confirmed  
15 plan. But where it dovetails with what our argument is, is  
16 that the Court there as well was essentially saying the  
17 underlying causes of action weren't really presented to us, so  
18 we're not -- we -- and the confirmation of the plan didn't  
19 involve disposing of them, so we're not going to say that they  
20 are precluded. And we think that that's as close an analogy as  
21 we've found in the Fifth Circuit to the issues here today.

22 So I would say, Your Honor, that we believe that  
23 dispenses with the res judicata argument. The judicial  
24 estoppel argument, they conflate the language. I'll go back to  
25 this for a second. They conflate the language of judicial



1 estoppel on the success of the claim. None of the cases they  
2 cite on judicial estoppel involved where a party took a  
3 position, withdrew their argument, and then the Court moved on.

4           Mr. Morris tries to convert a judicial estoppel claim  
5 into a judicial reliance claim, which is not the purpose of the  
6 doctrine and is not the doctrine at all. The doctrine is that  
7 if you take a successful position in one court, you can't take  
8 the opposite position in another court. CLO Holdco didn't take  
9 a successful position in one court and then change its position  
10 later on. In fact, its positions, as Mr. Morris stated, are  
11 remarkably similar. They're not inconsistent, which is the  
12 problem with their judicial estoppel argument. And we -- I  
13 think we fairly briefed that in our papers and we'll otherwise  
14 rest on the papers.

15           To deal -- to address the actual claims, again, I  
16 come back to the idea of a fiduciary duty claim, which is our  
17 lead claim. And to be clear, it's a state claim predicated on  
18 the violation of federally imposed fiduciary duties.

19           And I'm looking for a clock to make sure I'm not  
20 abusing Your Honor's time, and I don't have one right in front  
21 of me because my screen -- my screen is up.

22           Your Honor, the Douglass v. Beakley case is, like I  
23 said, is Judge Boyle's case. It specifically provides a cause  
24 of action based upon violations of the Advisers Act. We also  
25 cite about four or five other cases in footnote 8 of our

1 response from other circuits, including the Third Circuit, the  
2 Belton case that I referred to earlier, all of which held that,  
3 yes, a state fiduciary duty claim can be predicated on breaches  
4 of a federal Advisers Act violation.

5           The other point that they make on the fiduciary duty  
6 claim is they argue HCMLP doesn't owe fiduciary duties to CLO  
7 Holdco. And the cases they cite, Your Honor, we dealt with in  
8 the papers why they were distinguishable, because in those  
9 cases they were dealing with the fact that there wasn't any  
10 harm or any direct relationship. But what they ignore is the  
11 actual language of the Advisers Act, which is important.

12           Well, first of all, Mr. Seery admitted in his own  
13 testimony during the approval hearing in July of 2019 that he  
14 says, "We owe." He says, "There are third party investors in  
15 the fund -- in these funds who have no relation whatsoever to  
16 Highland, and we owe them a fiduciary duty both to manage their  
17 assets prudently, but also to seek to maximize value." I think  
18 Mr. Seery was absolutely correct when he said that. Highland  
19 owes fiduciary duties to the investors in the funds that  
20 Highland manages. The core of our case is that Highland is  
21 using or abusing the assets of the funds it managed in HCLOF  
22 for its own enrichment, which is a classic breach of fiduciary  
23 duty case under the Advisers Act.

24           Now -- excuse me. The other point that I would say,  
25 Your Honor, is that there is a statutory basis for us to argue

1 a breach of fiduciary duty. Excuse me. I didn't mean to stop  
2 sharing. I apologize.

3 Are you back with me, Your Honor, on my --

4 THE COURT: Yes.

5 MR. SBAITI: -- PowerPoint?

6 THE COURT: Yes.

7 MR. SBAITI: Sorry about that, Your Honor. I just  
8 hit the wrong thing. I'm not very technologically savvy. Here  
9 we go.

10 So Holdco is an investor in HCLOF, which is a pooled  
11 investment vehicle. A pooled investment vehicle under the case  
12 law we cite is simply defined as an investment vehicle that  
13 doesn't publicly solicit investors and has few than 100  
14 investors. Highland advises it. That's the same holding in  
15 TransAmerica Mortgage, by the way, which we also cite.

16 15 U.S. C. Section 80(b)(6) establishes the federal  
17 fiduciary standards to govern the conduct of registered  
18 investment advisers. That's also the TransAmerica case. 15  
19 U.S.C. Section 80(b)(6)(D) delegated to the SEC the power to  
20 decide the scope of those duties that are imposed under the  
21 statute. And so the SEC enacted 17 C.F.R. Section 275.206(4)-  
22 8.

23 And it expressly states, and we cite the statute or  
24 the regular in full in our papers, that the fiduciary duties  
25 are owed to investors in the pooled investment vehicles. It

1 specifically says that. It talks about two different duties  
2 owed and they're owed to the investors in the vehicles, which  
3 means they're owed to Holdco as an investor in HCLOF, which is  
4 the vehicle that Highland manages.

5 It's black and white in the regulation. And we  
6 haven't seen any response. There was no response of that in  
7 the reply that was filed, Your Honor. And so the argument that  
8 there's not a fiduciary duty owed to Holdco because it's merely  
9 an investor in HCLOF simply doesn't comport with the law.

10 And finally, the petition lays out the basis for our  
11 claims including the applicable federal and state law.  
12 Plaintiffs' response lays out why the legal arguments aren't  
13 opposite at the 12(b)(6) stage and Rule 9(b) is met where  
14 necessary under the federal claim. And I'm trying to unshare  
15 so that I can get back to regular argument.

16 I'd like to briefly address Mr. Morris' argument,  
17 Your Honor. Your Honor, I re-raise my argument that I made  
18 before, which is that a 12(b)(6) motion and hearing is not the  
19 appropriate time for all the evidence that was poured in here.  
20 And I understand Mr. Morris' contention, well, it's really hard  
21 to ignore all the history of this case. But a lot of that  
22 history really boils down to things that were actually admitted  
23 in the complaint. The complaint recognized there was a 9019.  
24 But what Mr. Morris wants to do is go beyond that and to go to  
25 what people said and what they must have meant. What Mr.

1 Dondero must have meant in his objection, what Dugaboy must  
2 have meant by their objection, what Mr. Pugatch must have meant  
3 by his testimony.

4 All of that is highly improper at this stage of the  
5 proceeding, Your Honor. It's outside of the 12(b)(6) confines.  
6 It's outside the four corners of the complaint. And we object  
7 to all of that evidence being considered.

8 THE COURT: Let me --

9 MR. SBAITI: The question we --

10 THE COURT: Let me ask you about that procedural  
11 point.

12 MR. SBAITI: Yes, Your Honor.

13 THE COURT: As we know, 12(d) provides that if  
14 matters outside the pleadings are presented to and not excluded  
15 by the Court in a 12(b)(6) motion, the motion must be treated  
16 as one for a summary judgment under Rule 56 and all parties  
17 must be given a reasonable opportunity to present all the  
18 material that is pertinent to the motion.

19 Are you -- what are you arguing? That I should treat  
20 it as a motion for summary judgment and give you more time to  
21 present other materials? I mean, you both presented an  
22 appendix, okay. And I'm telling you we're seeing this more and  
23 more, I've noticed. People are going beyond the four corners  
24 of a motion to dismiss and attaching things. And there's some,  
25 you know, Fifth Circuit authority that says, well, if what is

1 attached is integral to understanding, you know, an allegation  
2 or whatever in the pleading, you know, there is some discretion  
3 to go outside the four corners.

4           So I'm trying to understand the point you're making  
5 with this. Are you saying I should treat it as a motion for  
6 summary judgment or do these attachments really -- you know, do  
7 I have authority under the Fifth Circuit to consider them as  
8 part of the 12(b)(6) motion or not?

9           MR. SBAITI: Typically, in our experience, Your  
10 Honor, is when a summary or when a 12(b)(6) is going to be  
11 treated as summary judgment under 12(d), the Court says that  
12 and then the parties are given an opportunity, as you said, to  
13 go do some discovery in order to put together the evidence and  
14 materials to then come back and respond as a summary judgment.  
15 We responded to a 12(b)(6) and objected to the evidence. If  
16 the Court wants to treat it as a summary judgment, then we  
17 would ask for an opportunity for -- to conduct discovery in  
18 order to be able to respond as a summary judgment motion, but  
19 we didn't -- because we responded to a 12(b)(6) --

20           THE COURT: You did the same thing though. You did  
21 the same thing in your response. You submitted an appendix of  
22 evidence, if you want to call it evidence. As someone pointed  
23 out, it's stuff from the bankruptcy court record. I don't  
24 think it went beyond what was already in the bankruptcy court.

25           MR. MORRIS: And if I -- can I be heard on this, Your

1 Honor?

2 THE COURT: You can. You can.

3 MR. MORRIS: Just to respond. This is really quite  
4 simple. The motion to dismiss is based on res judicata. Res  
5 judicata necessarily requires a review of what happened in  
6 connection with the prior hearing. There's nothing that we  
7 have identified or put forth in the appendix or on our exhibit  
8 list except for the pleadings in the 9019, the transcripts, the  
9 one deposition transcript, the one trial transcript, the  
10 settlement agreement, the transfer agreement. I'd love to know  
11 what the Court couldn't or shouldn't take judicial notice of.  
12 There is no emails. There is no -- there is no -- there is no  
13 extrinsic evidence, if you will. All of this is either on the  
14 docket or was presented as part of the hearing.

15 THE COURT: Yeah. I'm just trying to ferret --

16 MR. MORRIS: And it's necessary. And it's necessary  
17 for the motion.

18 THE COURT: Yeah. I'm just trying to ferret out the  
19 procedural position that's being asserted here. And I don't  
20 have the case cites off the top of my brain, but there is  
21 authority from at least the Northern District judges, if not  
22 the Fifth Circuit, saying in a 12(b)(6) motion I can take  
23 judicial notice of items in the record. And then, you know,  
24 there -- I know there's Fifth Circuit authority saying I can go  
25 beyond the four corners in a 12(b) context if it's just basic,



1 you know, explaining things that are in allegations. You know,  
2 such as --

3 MR. SBAITI: May I address that, Your Honor?

4 THE COURT: -- such as if a contract is in dispute,  
5 okay. Like there's no way you can have a cause of action under  
6 the contract and here's the contract. So I'm just trying to  
7 nail down your procedural position here.

8 MR. SBAITI: Your Honor, the distinction I was trying  
9 to make that I don't think I put as artfully as I might be able  
10 to put now is in a 12(b)(6) if there's a contract, as you said,  
11 if there's a legal document, a contract and order that's  
12 integral to the case, Your Honor can take judicial notice of  
13 that. Generally, a court can take judicial notice of filings  
14 in a bankruptcy, the fact that they were filed.

15 So the transcripts, which Your Honor can't take  
16 judicial notice of, is the truth of those. And that was what I  
17 was objecting to is it's one thing for him to say an objection  
18 was filed and therefore, because an objection was filed, that  
19 should be it. That was your only chance. I'm not saying Mr.  
20 Morris can't make that argument.

21 But when he goes beyond the fact of the filing or the  
22 fact that there was a transcript or the fact that there was a  
23 deposition and starts to read from the depositions or read from  
24 the filings and say this is what those mean, that goes against  
25 the 12(b)(6) parameters because, number one, now it's

1 substantive evidence and not simply a judicial notice of  
2 something that's right there in front of the Court, i.e.,  
3 something on its own docket. Because those statements and the  
4 interpretation of those statements are subject to credibility  
5 findings. They're subject to clarification. They're subject  
6 to rebuttal. That's the purpose of discovery.

7           And so if Your Honor -- and Mr. Morris is right.  
8 Usually, res judicata involves knowing what happened in the  
9 prior proceedings. So if all he wants to do is rest on the  
10 fact that an objection was filed by CLO Holdco and maybe even  
11 other people, and that should be it and he thinks that's enough  
12 for Your Honor to say res judicata applies, then I don't think  
13 we have a problem. It's when he goes beyond that and says,  
14 Your Honor, these people must have known and this is what they  
15 meant by their argument, that's what I'm asking Your Honor not  
16 to consider. And if Mr. Morris wants you to consider that,  
17 that's a summary judgment motion and we should have the  
18 opportunity to do discovery at the very least into the issues  
19 he has now raised as supporting his res judicata defense which  
20 he has the burden of proof on.

21           MR. MORRIS: Your Honor, this is one of the strangest  
22 arguments I have ever heard. I'm allowed to offer the Court  
23 and the Court is allowed to accept the documents, but I'm not  
24 allowed to read them. I'm not allowed to make arguments. I  
25 don't understand what that even means. If it were a contract,

1 I would be allowed to put the contract in front of Your Honor,  
2 but I wouldn't be able to argue why the contract doesn't say  
3 what the Plaintiff says. I don't get it.

4 THE COURT: Okay.

5 MR. MORRIS: That's --

6 THE COURT: Just I've heard enough on this. I don't  
7 think we have moved into Rule 12(e), that realm of me needing  
8 to treat this as a motion for summary judgment. I think the  
9 so-called evidence, the appendix that was attached to the  
10 motion as well as the appendix that was attached to Plaintiffs'  
11 response, it's stuff that I can take judicial notice of that's  
12 in the record of this Court and I can look at it. You know, it  
13 is what it is, the record of this Court.

14 All right. So I have nine people waiting in  
15 chambers. I'm trying to figure out should I take a break now  
16 or are you fairly close to wrapping up. Either answer is fine,  
17 Mr. Sbaiti. I just need to figure out who I make wait here.

18 MR. SBAITI: I have -- oh, I'm sorry. I didn't mean  
19 to interrupt you, Your Honor. I was just going to say I have  
20 five minutes left, but I know Mr. Morris probably wants to come  
21 back. So if you want to break now and we can come back at  
22 whenever the Court wants us to, we can do so.

23 THE COURT: All right. Why don't you make your final  
24 five minutes and then we'll take a break?

25 MR. SBAITI: Okay. Thank you, Your Honor.

1 I just wanted to address some of the arguments that  
2 Mr. Morris raised in his argument. The first thing is -- and I  
3 addressed this in part -- but Mr. Morris makes a big deal about  
4 paragraph 127 of the complaint and essentially suggests that  
5 we're the -- or that Mr. Dondero is the perpetrator of a  
6 nefarious scheme. Whereas, what the pleading actually says,  
7 and I again encourage Your Honor to re-read -- to read it  
8 specifically, is that Mr. Dondero warned Mr. Seery not to trade  
9 in the stock and not to make any transactions because the stock  
10 was going to appreciate in value.

11 That has two implications for us, Your Honor. Number  
12 one, it means Mr. Seery was a tippee of insider information,  
13 and number two, it means that Mr. Seery, if he did trade on  
14 that information or if he did pass that information on to  
15 someone else, that is a problem from the Advisers Act  
16 standpoint, which is really the only purpose of saying that.

17 While paragraph 127 also says that that should have  
18 caused Mr. Seery to revalue the NAV of HCLOF, it does not state  
19 and we did not plead that the entire value of HCLOF is tied to  
20 the MGM stock. So the insinuation that that somehow gave us  
21 inside information about what the true value of HCLOF was and  
22 we should have known or that Mr. Dondero should have known is  
23 simply untrue.

24 The other argument Mr. -- that Mr. Morris likes to  
25 harp on is that CLO Holdco withdrew its argument, but he

1 characterizes Mr. Kane's withdrawal testimony -- as he says,  
2 Mr. Kane admitted that CLO Holdco lacked the superior right to  
3 obtain the HarbourVest. If you read the very language that was  
4 highlighted on Mr. Morris' slide, that's not what Mr. Kane  
5 says. Mr. Kane says, "We've gone back to the drawing board.  
6 We've read your reply. And my client has given me permission  
7 to withdraw the argument or withdraw the objection." That's  
8 all he said. There was not an admission that he was wrong.  
9 There was not an admission that they had made a mistake. There  
10 was simply an admission that they decided to withdraw the  
11 objection for whatever reason.

12           Lastly, on the specific claims --

13           THE COURT: That's not an accurate description of the  
14 record. He said he looked at --

15           MR. SBAITI: Your Honor, I was reading it along with  
16 him.

17           THE COURT: -- Guernsey Law. And I don't know if his  
18 words were deep dive.

19           MR. SBAITI: Yeah.

20           THE COURT: But he had looked at the agreements  
21 extensively. That's just not what he said.

22           MR. SBAITI: And he said he was with -- Your Honor,  
23 he said he was withdrawing. He didn't say we were wrong. He  
24 didn't say we don't have a claim. What he said was, "We're  
25 withdrawing the objection."

1 THE COURT: After doing an extensive look at the  
2 agreements in Guernsey Law, okay, so.

3 MR. SBAITI: Sure. But, Your Honor, he might have --  
4 he could just as easily thought we have a chance, but it's not  
5 a good one. And frankly, we'll be here for 20 days and we're  
6 withdrawing it for that reason because we'll live to fight  
7 another day. Your Honor, there's an innumerable number. To  
8 simply say that he admitted that they didn't have a correct  
9 claim, it's just he didn't say that. That's all. That's the  
10 only point I'm making.

11 Your Honor, I don't disagree with the debtor that the  
12 Court's exculpation clause gets rid of the negligence claim  
13 which was obviously filed before the effective date, so that  
14 claim is gone.

15 And I think the last argument that Mr. Morris makes  
16 on the RICO claim is the federal court, the Supreme Court  
17 standard for pleading a RICO claim, that acts that only  
18 continue for a few weeks are not -- don't set out a RICO claim.  
19 Your Honor, in our response to that, we actually submitted an  
20 amended complaint that shows that the type of acts we're  
21 talking about, the pattern of the debtor using its investor  
22 vehicles assets to liquidate is a long pattern and practice  
23 than simply the HarbourVest suit. And so, we move to amend on  
24 that basis to satisfy that pleading defect, which is the main  
25 one that they focused on.

1 That's all I have, Your Honor.

2 THE COURT: All right. Thank you.

3 We're going to take a 15 minute break and come back.

4 I'll ask Mr. Jordan and Mr. Bessette did they have anything  
5 they wanted to say today. I know they joined in the debtor's  
6 motion. And then we'll let Mr. Morris have rebuttal.

7 All right. So we'll be back in 15 minutes.

8 THE CLERK: All rise.

9 MR. MORRIS: Thank you, Your Honor.

10 (Recess at 12:05 p.m./Reconvened at 12:23 p.m.)

11 THE CLERK: All rise.

12 THE COURT: All right. Please be seated.

13 We're back on the record in Charitable DAF v.  
14 Highland Capital. All right. So I promised I was going to go  
15 back to counsel for Highland CLO Funding, Ltd. So Mr. Jordan,  
16 Mr. Bessette, is there anything you wanted to say for oral  
17 argument?

18 MR. JORDAN: Thank you, Your Honor. John Jordan on  
19 behalf of HCLOF.

20 Our points are two procedural points. The first is  
21 as the Court anticipated, in our motion to dismiss filed back  
22 in August, we joined in the motion to dismiss of Highland. And  
23 so to the extent that the Court after deliberation is inclined  
24 to grant that motion, we would ask that as a joining party,  
25 HCLOF be pulled along with that.



1           The second procedural point is that back in our  
2 motion to dismiss, we pointed out that the complaint does not  
3 actually allege anything against HCLOF. In the story, we're  
4 essentially the football and neither Oklahoma nor UT. And we  
5 pointed that out as an additional argument to what you've heard  
6 today. That motion was never responded to. The deadline by  
7 agreement was extended to October 11th. And the lack of  
8 response was, we believe, not inadvertent but simply an  
9 acknowledgment that HCLOF is not a party that anything is being  
10 claimed against.

11           It particularly makes sense since effectively and in  
12 rough numbers, they're half owned by both sides. So for every  
13 dollar that HCLOF spends hanging around the case, the parties  
14 are paying essentially 100 cents collectively. So for that  
15 reason, we would ask, and subject to Mr. Sbaiti's input,  
16 whether the Court would ask us or direct us to upload an order  
17 granting our motion as unopposed. We just feel like we don't  
18 have any role in this case.

19           THE COURT: All right.

20           Mr. Sbaiti, what about that?

21           MR. SBAITI: Your Honor, they were originally added  
22 as a nominal party. And as a nominal party, because of the  
23 potential need to have a derivative action, I think that based  
24 upon Highland's arguments and the arguments that we had, I  
25 don't think the derivative action is necessary for us to

1 maintain on a go-forward basis. And so we don't oppose them  
2 being dismissed.

3 THE COURT: All right. Then I assume, Mr. Morris,  
4 you don't have any problem with this, correct?

5 MR. MORRIS: No, Your Honor.

6 THE COURT: Okay. So I'll look for the parties to  
7 submit an agreed order of dismissal of HCLOF after the hearing.  
8 All right?

9 MR. JORDAN: Thank you, Your Honor.

10 THE COURT: All right. Mr. Morris, you get the last  
11 word.

12 MR. MORRIS: Thank you, Your Honor. I hope to be  
13 relatively brief. I really just want to focus on the arguments  
14 concerning whether or not the order that was entered by this  
15 Court was an order that was entered on the merits.

16 As the Court is well aware, a 9019 motion filed by a  
17 debtor is done so on notice. It is to give all parties in  
18 interest an opportunity to be heard, not just as to whether or  
19 not the debtor meets its burden of proof under Rule 9019 but  
20 whether or not the Court can find, as it must, that the  
21 proposed settlement is in the best interest of the estate.

22 The purpose of -- I mean that is the purpose of the  
23 giving notice so that everybody has a chance to be heard. The  
24 questions that the Court asked, the questions that every  
25 bankruptcy court asks in a 9019 is can the debtor do this deal,

1 should the debtor do this deal, is it in the best interest of  
2 the estate to do this deal.

3 And, you know, the idea that a 9019 order is somehow  
4 res judicata only to the parties to a settlement is just  
5 something that doesn't make any sense to me because it  
6 abrogates so many rules that exist that allows and encourages  
7 and requires parties who have objections to be heard.

8 Mr. Sbaiti's clients filed an objection. They  
9 initiated a contested matter. They obtained rights. They were  
10 litigants. They are litigants in a contested matter where  
11 they're required to tell the Court what objections they have to  
12 the settlement, and they did that.

13 Mr. Sbaiti, you know, told me that I wasn't allowed  
14 to characterize the words that are used in the documents that  
15 have now been admitted by the Court. And, yet, I heard him say  
16 that maybe Mr. Kane (phonetic) really meant to tell Your Honor  
17 that he was withdrawing the claim because he was going to save  
18 it for another day.

19 I'd just ask the Court to look at the transcript. I  
20 don't have to interpret it at all. And I'd ask the Court to  
21 read the words. I can put them back up on the screen, but  
22 they're pretty short. It's at Pages 7 and 8 of the transcript  
23 of what Mr. Kane told you and what you said in response. It's  
24 on the page, not my interpretation, and what the import of that  
25 was.

1 Mr. Sbaiti believes, I guess, if one is allowed to  
2 engage in such conduct without consequence, that one is allowed  
3 to allow to file objections, cause the Court and the litigants  
4 to participate, to give discovery, to write briefs, to do  
5 analyses, withdraw it on the basis of their own good faith  
6 analysis of Guernsey law of the documents and somehow say it's  
7 irrelevant. Not what the law is, not what res judicata is  
8 intended to do.

9 He should have put all of his cards on the table. In  
10 fact, I think that Mr. Kane believed he was putting all of his  
11 cards on the table because that's what he did. He filed a very  
12 comprehensive objection. He asserted a right to the  
13 opportunity that the debtor was proposing to take in the 9019  
14 motion. That's what he was doing. He was objecting on the  
15 basis that he claimed his client had a superior right to this  
16 asset.

17 And he didn't -- like I said earlier, Your Honor, I  
18 don't think he would be permitted, I don't think these claims  
19 would fly today if no objection was filed. But the fact that  
20 there was renders, I think, indisputable that there was a  
21 finding on the merits, right. And the only reason that the  
22 Court didn't rule on Mr. Kane's motion, the only reason the  
23 Court didn't rule on it is because Mr. Kane withdrew it.

24 Is that really the way this process is supposed to  
25 work, that one can tell the Court that after a review of the

1 documents, I'm going to withdraw the objection and then file a  
2 claim for damages three months later with a different client,  
3 with a different control person, with a different lawyer?

4 That's okay under doctrine of res judicata? I don't think so.

5           They had a full and fair opportunity. The fact that  
6 this was somehow -- you know, they're denigrating the fact that  
7 this was a 9019 motion. There's not supposed to be a mini-  
8 trial. Your Honor had discretion as to what to do. Every  
9 court in every bench trial has discretion as to what to do and  
10 whether or not to overrule objections and whether or not to  
11 sustain [sic] objections. That's what judges to.

12           And there's nothing offensive about the fact that it  
13 happened in the context of a 9019 motion. They don't get to  
14 sit on their hands and wait to fight another day. If they  
15 believed that the debtor was exposing itself to liability, and  
16 that's what they actually say in the opposition, that's what I  
17 actually think they say in the complaint, accept it as true,  
18 they believe that the debtor created liability for itself by  
19 rendering -- by entering into this transaction.

20           Shouldn't they have raised their hand and said you  
21 can't do this deal, right? And the only response to that --  
22 they have to that is they had no idea about value. Paragraph  
23 127, Your Honor, Mr. Dondero, the architect of this complaint,  
24 as was proven on June 8th, knew very well about value. And it  
25 doesn't matter that it was only MGM. Your Honor commented on

1 that at the June 8th hearing in a different context. But  
2 everybody knows, right, it is. He sits on the board of MGM.

3 And I'm sorry if I called him a tippee instead of a  
4 tipper. But if this complaint goes forward, we'll dig into  
5 that real deep. But there's no reason it ought to, Your Honor.  
6 This case ought to be dismissed on res judicata grounds. It  
7 should be dismissed on judicial estoppel grounds. And it  
8 should be dismissed for all the reasons that I said in my  
9 argument in my brief.

10 But I do just want to close with one point, and that  
11 is to read from a case called Goldstein, which I think I  
12 alluded to earlier on this issue of whether there's a fiduciary  
13 duty that's owed by an advisor to an investor and a fund:

14 "At best, it is counterintuitive to characterize the  
15 investors in a hedge fund as the clients of the  
16 advisors. The advisor owes fiduciary duties only to  
17 the fund, not to the fund's investors."

18 There's a lot of discussion about fiduciary duties,  
19 Your Honor. But to the extent that they have any basis to  
20 defeat the motion to dismiss on res judicata or collateral  
21 estoppel grounds, we hope and we trust and we know the Court  
22 will review the case law vigorously to test some of the  
23 assertions to that.

24 I have nothing further, Your Honor.

25 THE COURT: All right. Well, thank you to all of

1 you.

2           As a reminder, I don't think you need it, but as a  
3 reminder, I am essentially acting as a magistrate for Judge  
4 Boyle in this action. And whichever way I go on whichever  
5 theories, I think she would expect a thorough write-up. It  
6 would, of course, be in the form of a report and recommendation  
7 for her to either adopt or not if I dispose of some or all of  
8 the counts in the lawsuit.

9           Even to the extent I deny dismissal, even though the  
10 rule typically does not require a court to make detailed  
11 findings and conclusions in connection with a denial of a  
12 motion to dismiss, again, since I'm sitting as a magistrate, I  
13 think Judge Boyle would expect some thorough explanations and  
14 reasoning from me.

15           So that's my way of saying I'm taking this under  
16 advisement. I am going to drill down on some of the cases that  
17 have been argued. I think some important issues are raised  
18 here that need some thorough reasoning.

19           So I will do the best to get this out without too  
20 much delay. I think there's probably zero chance, zero chance  
21 I'm going to get it done by the end of the year. We're just  
22 too behind with some of our under-advisements. But I will try  
23 earnestly to get it out fairly soon after the first of the  
24 year. All right?

25           Thank you. You all have a good holiday.



1 THE CLERK: All rise.  
2 (Proceedings concluded at 12:37 p.m.)

3 \* \* \* \* \*

4  
5 **C E R T I F I C A T I O N**

6 We, DIPTI PATEL, KAREN WATSON, CRYSTAL THOMAS, AND  
7 PATTIE MITCHELL, court approved transcribers, certify that the  
8 foregoing is a correct transcript from the official electronic  
9 sound recording of the proceedings in the above-entitled  
10 matter, and to the best of my ability.

11  
12 /s/ Dipti Patel

13 DIPTI PATEL, CET-997

14  
15 /s/ Karen Watson

16 KAREN WATSON, CET-1039

17  
18 /s/ Crystal Thomas

19 CRYSTAL THOMAS, CET-

20  
21 /s/ Pattie Mitchell

22 PATTIE MITCHELL

23 LIBERTY TRANSCRIPTS

DATE: November 23, 2021

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